Docket #0144 Date Filed: 01/13/2026

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:	Chapter 11
Apple Tree Life Sciences, Inc., *et al.*,[1]	Case No. 25-12177 (LSS)
Debtors.	(Jointly Administered)

LIMITED OMNIBUS OBJECTION OF RIGMORA BIOTECH INVESTOR ONE LP AND RIGMORA BIOTECH INVESTOR TWO LP TO *DEBTORS' MOTION FOR ENTRY OF INTERIM AND FINAL ORDERS TO (I) MAKE AND ACCEPT SECURED LOANS TO PORTFOLIO COMPANIES, (II) AUTHORIZE TO THE EXTENT OUTSIDE THE ORDINARY COURSE OF BUSINESS PAYMENT OF MANAGEMENT COMPANY EXPENSES AND (III) GRANTING RELATED RELIEF* AND DEBTORS' OTHER OPERATIONAL MOTIONS AND SUPPLEMENTS THERETO

Parties in interest Rigmora Biotech Investor One LP, by its general partner Unicorn Biotech Ventures One Ltd, and Rigmora Biotech Investor Two LP, by its general partner Unicorn Biotech Ventures Two Ltd (collectively, the "**LPs**"), respectfully submit the following limited omnibus objection (the "**Limited Objection**") to the Debtors' operational motions and supplements thereto, including (i) *Debtors' Motion for Entry of Interim and Final Orders to (I) Make and Accept Secured Loans to Portfolio Companies, (II) Authorize to the Extent Outside the Ordinary Course of Business Payment of Management Company Expenses and (III) Granting Relief* [Docket No. 89] (the "**Funding Motion**");[2] (ii) *Debtors' Motion for Entry of Interim and Final Orders to*

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number include: Apple Tree Life Sciences, Inc. (4506); ATP Life Science Ventures, L.P. (8224); ATP III GP, Ltd. (6091); Apertor Pharmaceuticals, Inc. (3161); Initial Therapeutics, Inc. (2453); Marlinspike Therapeutics, Inc. (4757); Red Queen Therapeutics, Inc. (8563); Evercrisp Biosciences, Inc. (4437); and Nine Square Therapeutics, Inc. (4503). The location of the Debtors' service address in these chapter 11 cases is 230 Park Avenue, Suite 2800, New York, NY 10169.

[2] The Court entered an order granting the relief requested in the Funding Motion on an interim basis at Docket No. 102 (the "**Funding Interim Order**").

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(I) Continue Employee Benefit Programs and (II) Grant Related Relief [Docket No. 23] (the "**Initial Wages Motion**")[3] and the *Debtors' Supplement to Motion for Entry of Interim and Final Orders to (I) Continue Employee Benefits Programs and (II) Grant Related Relief* [Docket No. 124] (together with the Initial Wages Motion, the "**Wages Motions**"); (iii) *Debtors' Motion Seeking Entry of Interim and Final Orders (I) Authorizing the Debtors to (A) Continue to Operate Their Cash Management System, (B) Honor Certain Pre-Petition Obligations Related Thereto, and (C) Continue to Perform Intercompany Transactions, (II) Granting Administrative Expense Status to Post-Petition Intercompany Balances, and (III) Granting Related Relief* [Docket No. 24], (the "**Initial Cash Management Motion**") and the *Debtors' Supplement to Motion Seeking Entry of Interim and Final Orders (I) Authorizing the Debtors to (A) Continue to Operate Their Cash Management System and (B) Honor Certain Prepetition Obligations Related Thereto, and (II) Granting Related Relief* [Docket No. 122] (the "**Cash Management Supplement**" and, together with the Initial Cash Management Motion, the "**Cash Management Motions**"); and (iv) the *Debtors' Motion for Entry of an Order (I) Authorizing Debtors to Employ Professionals Utilized in the Ordinary Course of Business, (II) Waiving Certain Information Requirements of Local Rule 2016-1, and (III) Granting Related Relief* [Docket No. 121] (the "**Ordinary Course Professional Motion**" and, together with the Funding Motion, the Wages Motions and the Cash Management Motions, the "**Operational Motions**"):[4]

[3] The Court entered an order granting the relief requested in the Initial Wages Motion on an interim basis at Docket No. 78 (the "**Wages Interim Order**").

[4] Capitalized terms used but not defined herein shall have the meaning ascribed to each such term in the applicable Operational Motion.

PRELIMINARY STATEMENT

The Unusual Nature of These Cases and the LPs' Role

1. The early stages of traditional, non-prearranged bankruptcy cases typically involve debtors seeking a soft landing into chapter 11 operations while exploring reasonable, consensual ways to extend runway and preserve value, with an ultimate goal to develop a plan of reorganization supported by key stakeholders. Typically, by the time of a "second-day hearing," a creditors' committee will have been appointed and its professionals will have pushed for customary guardrails and disclosures related to operational first-day motions, with further oversight in the form of a DIP lender's weekly budget reporting and covenants. Ad hoc committees representing major economic constituencies may also be active and typically press for the same information and reporting rights granted to other key parties. This extensive reporting by the debtor and oversight from multiple key constituencies help give meaning to the oft-repeated phrases that chapter 11 is a refuge for an "honest but unfortunate debtor," but the tradeoff for this protection is "life in a fishbowl."

2. These chapter 11 cases do not follow that typical pattern. There is no creditors' committee, no DIP lender, and no ad hoc committees—indeed, there is no funded debt at all, and even unpaid trade claims appear negligible. The Debtors' petitions have been filed in waves, and what would typically be "first-day" motions have been filed in fits and starts. Perhaps because of this uneven timing, the motions request inconsistent and sometimes contradictory relief. Far from being an "honest but unfortunate" operating company, the general partner Debtor, ATP III GP, Ltd. (the **"GP Debtor**") has no expenses and no need for liquidity over the next 26 weeks, underscoring the improper tactical nature of its filing. Likewise, the lead Debtor, ATP Life Science Ventures, L.P. (the "**Fund**" and, together with the GP Debtor, the "**Fund-Level Debtors**"), is not a corporate entity at all under Cayman law, has no meaningful debts, and has assets only to the

extent that they are held in trust by its general partner, the GP Debtor for the benefit of the LPs, who are the impaired class, fulcrum security, and indeed the only meaningful economic constituency for the Fund-Level Debtors. Inexplicably, despite owing its fiduciary duties to the LPs, the GP Debtor has stated its intention to use these chapter 11 cases to displace them, in clear derogation of Cayman law. Those issues, including whether the Fund-Level Debtors' chapter 11 cases belong in this Court at all, will first be substantively addressed at a hearing scheduled in February on the LPs' pending motions to dismiss the Fund-Level Debtors' cases, *see* Docket No. 3 (the "**Motion to Dismiss**") or, in the alternative, to permit core issues of corporate governance to be determined by a Cayman court, *see* Docket No. 125 (the "**Lift Stay Motion**" and, together with the Lift Stay Motion, the "**LP Motions**").

3. The unorthodox nature of these chapter 11 cases also underlies this Limited Objection to the Operational Motions. While the LPs are willing to be reasonable and permit baseline-level funding of portfolio company operations for a period of time while this Court considers and determines the LP Motions, they cannot stand by and permit the Fund's assets (which the LPs believe are not even within the jurisdiction of this Court) to be depleted without the kind of clear budgets and oversight that would be available to key constituents in any normal case and should be available to the LPs here.

4. To be clear, the LPs have not challenged and do not oppose necessary funding for ordinary-course operations that preserve value, with reasonable disclosure and oversight mechanisms, provided that the spending is part of a plan to swiftly sort winners from losers among the Fund's portfolio of investments and appropriately maximize value, rather than merely an end-run around their governance rights. The LPs agree that front-line employees should be paid their wages, the Debtors' system of bank accounts should be preserved, and the lights should "stay on"

at least for a reasonable period of time. However, the LPs object to the Debtors' proposal to spend millions of dollars to resume research and development activities at portfolio companies without any showing as to whether or how those expenditures will ultimately benefit the Fund. Here, perhaps driven in part by the different petition dates and the atypical cadence of filing the Operational Motions, the relief requested is unclear and unsupported by detailed motions or verified facts, and the proposed orders lack customary oversight and disclosure mechanisms that would be granted to a creditors' committee, a DIP lender, or any other key chapter 11 constituency, such as the LPs.

5. Accordingly, the Court should closely scrutinize the pending Operational Motions as appropriate to the unique circumstances of these cases, where the LPs represent the fulcrum security, the largest party in interest, and most likely, the *only* meaningful non-insider stakeholder, and where there is a significant pending question about whether the Fund-Level Debtors' chapter 11 cases are proper at all. Unless changes are made by clarifying and tightening the relief at issue and by granting appropriate reporting, oversight, and disclosure to the LPs, the Operational Motions will not meet this heightened standard of scrutiny and should be denied.

6. The LPs have attempted to raise these issues and resolve them with the Debtors and their professionals. After a lengthy period during which they provided no information, the Debtors have finally shared a proposed operating budget with the LPs and have expressed some willingness to discuss appropriate modifications to the orders proposed for the Operational Motions. Unfortunately, this information has come only within the last two days, and very significant questions remain. The LPs will continue to discuss these points in good faith, but at this time must lodge this Limited Objection, because the proposed relief is very far from warranted on the record supporting it.

The Deficiencies in the Operational Motions

7. As noted, the LPs do not fundamentally object to: maintaining baseline levels of operations for the portfolio company Debtors that have existing budgets, considering and approving new budgets where needed to maintain the status quo, or paying reasonable expenses of administering these chapter 11 cases, all during the time necessary to resolve the LP Motions and, to the extent any of these cases is not dismissed, while an appropriate exit strategy is formed. What the LPs *do* object to is an attempt to utilize Fund assets in blatant disregard of the Fund's Limited Partnership Agreement ("**LPA**") and applicable law to increase funding to both Debtors and non-Debtors in a way that is not only inconsistent with the budgeting process prescribed in the LPA but also lacks any other safeguards.

8. In the ordinary course of the Fund's business, the LPs have governance rights with respect to the portfolio company budgets. The absolute and unfettered nature of those governance rights was recently confirmed by the Delaware Chancery Court. Ex. A, Chancery Court Post-Trial Op. at 75. To the extent the Fund-Level Debtors seek to dispense with the required approval process, that is both a violation of the LPA and a use of property outside the ordinary course of business, requiring at a minimum approval of this Court[5] according to a business judgment standard *from the perspective of the Fund-Level Debtors and their own obligations to their stakeholders*—namely, the LPs.

9. The Fund assets include well over $100 million in cash on hand, but it would defy any reasonable business judgment to use that cash willy-nilly to fund all portfolio companies without regard to whether further expenditures will maximize value for the Fund. *See* Docket

[5] Under Cayman law, the Fund assets are held in trust by the GP for the benefit of the LPs; the LPs therefore dispute that the Fund's assets are properly before this Court at all.

No. 81, Hr'g Tr., Dec. 1, 2025 at 73:13–17. Even if the business judgment standard was applicable and this Court had jurisdiction to approve use of the Fund's assets over the objections of the LPs—which is disputed—the Fund-Level Debtors, and specifically the Debtors' Chief Restructuring Officer ("**CRO**"), would need to exercise careful and unconflicted judgment before spending this cash, some of which should have been distributed to the LPs prepetition and the rest of which, comprised of the $97 million recently paid by the LPs, was funded according to capital calls pursuant to specific approved budgets which the debtors-in-possession have seemingly discarded. The Fund is not a philanthropy or the National Institutes of Health—it is a private investment partnership. Accordingly, the CRO's proper objective, when acting for the Fund, is not to keep all portfolio companies afloat at any cost, but to maximize value and return on investment for the Fund. The LPs object to the Operational Motions generally, and the Funding Motion specifically, insofar as the Debtors, without proper oversight and accountability, seek to restart operations at mothballed portfolio companies without presenting any analysis of the expected return on investment or assessment of the companies' current value (if any).

10. Rather than using Fund assets to restart shut-down research projects, or to engage in an ill-defined effort to displace the LPs with new investors in clear violation of Cayman law and their duties to the LPs, the proper course for the Fund-Level Debtors would be to invest only enough money in the Debtor portfolio companies to keep the lights on while pursuing a court-supervised sale or other exit process for them. The LPs have asked the Debtors' advisors for this more modest budget proposal, but at this time, the Debtors have not shown a willingness to commit to this or any other reasonable approach. As a consequence, the LPs regrettably must file this Limited Objection to the Operational Motions.

The Current Interim Orders Should be Extended on Similar Terms

11. Rather than approving the Operational Motions on a final basis at this time, when the Debtors have failed to provide enough detail and safeguards to either the LPs or this Court, the Court should craft appropriate limited relief that will remain in place on an interim basis until the Debtors propose a more responsible and appropriate plan. Specifically, the LPs believe that, to the extent interim relief has already been provided (*e.g.*, for wages and cash management), such relief should remain interim until the Debtors' professionals can provide the Court and parties in interest sufficient disclosure to enable meaningful review, and the other operational motions should not be approved on a final basis pending similar disclosure. In addition, the LPs believe customary oversight mechanisms should be provided, and the LPs' rights should be preserved. Those interim orders should not permit the Debtors to pay bonuses to insiders, including individuals who serve on the board of any Debtor portfolio company or serve as an officer of Apple Tree Life Sciences "(**ATLS**"). Finally, approval of the Funding Motion should also be continued on an interim basis, according to a budget that provides for only strictly necessary spending that would meet the same immediate and irreparable harm standard that governed the approval of the Funding Motion on an interim basis, and is consistent with the budget under the current Interim Funding Order, including the removal of all expenditures associated with external research and development costs and the disputed management fee claimed by Apple Tree Venture Management LLP ("**ATVM**"), all until this Court has heard and determined the LP Motions regarding the propriety of the Fund-Level Debtors' chapter 11 cases and the impact of Cayman law.

FACTUAL BACKGROUND

12. Over the past month, the LPs have repeatedly affirmed their support for normal-course operations that preserve value, with reasonable disclosure and oversight mechanisms, for a reasonable period of time. To date, however, the LPs' requests for basic

information regarding such spending have been met with delays and confusion, and the Debtors have been unable to provide the LPs with consistent and reliable information. The Debtors' proposed operating budget, provided only two days ago after having been promised earlier, is entirely different from the various budgets and proposals that had been previously provided (and on which the LPs' prior consent to interim funding and operational relief was based), raising serious questions and concerns.

13. What information the Debtors *have* provided so far has either been incomplete or been patently unreasonable. With regards to the Funding Motion, the Debtors have proposed resuming research and development operations at several portfolio companies—both Debtor and non-Debtor—that are currently mothballed and/or have no existing approved budgets. *See* Funding Motion ¶ 9. This request is supported by no analysis showing that additional expenditures will maximize value or generate a positive return to the LPs (as opposed to merely benefiting insider employees and directors of the portfolio companies). Prior to the bankruptcy filing, [redacted]. Ex. B, Yanchik II Dep Tr. at 196:23–197:4; Ex. C, Q2 2025 Quarterly Digest at 11–13. Debtor Red Queen, which had researched a treatment for COVID-19, [redacted]. Ex. D, Q4 2024 Quarterly Digest at 15; Ex. B, Yanchik II Dep. Tr. at 204:7–14. [redacted]. Ex. B, Yanchik II Dep. Tr. at 234:2–24. And both Non-Debtor Apertor and Debtor Nine Square, although not officially mothballed, were down to four and three employees, respectively. Ex. C, Q2 2025 Quarterly Digest at 8–9; Ex. E, Chancery Trial Tr., Oct. 16–17, 2025 at 266:8–14. Seeking to restart research and development at these portfolio companies is not only outside the ordinary course of business, but is also an improper exercise of business judgment. Non-Debtors Aulos and Replicate are more

advanced companies and may warrant further investment, but the Debtors must substantiate that case before seeking approval for millions in additional spending.

14. The Funding Motion also seeks permission to pay the first "$750,000 of the $3 million annual fee due to non-Debtor [ATVM]," Funding Motion ¶ 15, a company that is "wholly own[ed]" by Seth Harrison, a statutory insider under the Bankruptcy Code, *see Decl. of Dr. Seth L. Harrison in Support of Chapter 11 Petitions and First Day Motions* [Docket No. 18] ¶ 42. The payment of this fee is governed under the LPA, but is subject to offset based on amounts realized by Dr. Harrison on stock options he was previously awarded. Ex. W, Stoke and Akero Option Consent, Nov. 11, 2019; Ex. X, Stoke and Akero Option Consent, Dec. 28, 2020. It is the LPs' understanding that Dr. Harrison exercised stock options in Akero, a former portfolio company, during the fall of 2025 which generated net proceeds that offset any amounts owed to ATVM under the management agreement. The Funding Motion nowhere addresses this offset, nor does it address whether the management fee should be withheld on the basis of the Debtor GP's mismanagement of the Fund and diversion of Fund resources to pay for its legal expenses. This is yet another example of where a gap in the information provided by the Debtors to the Court and the LPs raises more questions than it answers.

15. Leaving aside the poor business judgment of restarting research and development for mothballed companies when the availability and source of future funding is uncertain, the Debtors have provided conflicting information in other motions, making their current position unclear, as reflected in the examples below.

- *Payment of Bonuses and Severance*. Paragraph 5 of the proposed *Final Order Authorizing the Debtors to (I) Continue Employee Benefits Programs and (II) Granting Related Relief Wages* [Docket No. 124-2] (the "**Final Wages Order**") makes clear that no "non-ordinary course bonus, incentive, or severance payments [will be made] to their Employees or any Insiders . . . without further order from this Court," and "no bonus, incentive, or severance payments shall be made to any Insider without further

order of this Court." Paragraph 6 of the proposed Final Wages Order also states that the order does not provide authorization for the payment for "satisfaction of bonus or severance obligations, or which are subject to section 503(c) of the Bankruptcy Code." However, to whom these payments will be made, their insider status, and the underlying prepetition bonus and severance policies all remain unclear. Based on the budget provided to the LPs, it appears that the Debtors are contemplating paying bonuses to several insiders, and how severance payments will be determined, calculated or distributed remain equally unclear.

- *Payment of Severance.* Similarly, the Debtors reference the payment of severance in paragraph 8 of the Wages Interim Order and make clear that "no bonus, incentive, or severance payments shall be made to any insider without further order of this Court." Yet, despite this assurance and in spite of the LPs' questions, the Debtors take no time either in the Wages Motions or otherwise to actually define a severance policy or provide any guidelines on how such payments will be determined, calculated, or distributed—nor have they provided this information to the LPs informally.

- *Credit Cards.* The Cash Management Motions seek to continue operating the cash management system "in the ordinary course of business" but entirely fails to provide information regarding what expenses are covered by the corporate credit cards the Fund issues to portfolio companies. *See* Cash Management Supplement ¶¶ 22–26. In some cases, the Debtors have provided information inconsistent with their previous statements. For example, the Debtors noted in the Cash Management Supplement that "Debtor Evercrisp has provided six employees with corporate credit cards[.]" *Id*. ¶ 22. Yet, the Debtors recently reported to the LPs that Evercrisp had shrunk its headcount down to just four employees. Ex. C, Q2 2025 Quarterly Digest at 12. Similarly, the Debtors noted that they have provided six Nine Square employees with corporate cards despite testimony at the Chancery Court trial that Nine Square "now has three scientific employees and one operating officer." Ex. E, Chancery Trial Tr., Oct. 16–17, 2025 at 266:9–11. The Debtors have so far failed to provide an explanation for this discrepancy, just as they have failed to explain why Evercrisp's monthly credit card bill is expected to be over three times more than Nine Square's. *See* Cash Management Supplement ¶ 23.

- *Ordinary Course Professionals.* The Debtors set forth a budget that accounted for only $125,000 for non-legal professional fees for the entire 13-week period that was provided in a supplemental declaration of the Debtors' Chief Restructuring Officer, Perry Mandarino filed at Docket. No 63 (the "**Supplemental Mandarino Declaration**"). *See* Supplemental Mandarino Declaration, Ex. B at 5–6. Less than three weeks later, the Debtors proposed in their Ordinary Course Professional Motion spending more than half a million per month for the same ordinary course professionals, and they have provided no explanation for the material increase or what services these professionals will provide.

16. Further, the GP Debtor seems intent on using the cash held on trust for the LPs—as well as any other potential funding—in a manner wholly at odds with the LPA. The GP Debtor consistently maintained, throughout the Delaware Chancery Court proceedings, that the Fund's assets and liabilities are to be accounted for on a pool-by-pool basis. *See* Ex. G, ATP Pre-Trial Br. at 4 ("Since 2019, the Fund's assets, liabilities, and other economics, including its portfolio companies, have been divided into separate 'pools' . . ."); Ex. H, ATP Post-Trial Reply Br. at 2 ("[S]ince 2019 [the LPA] has made clear that capital contributions 'shall … be accounted for separately on a Pool-by-Pool basis.'").

17. Although the LPs have contributed the vast majority of capital to the Fund as a whole (over 98%), each pool has different stakeholders with different economic interests. For example, the LPs have contributed 100% of the capital for Pools V-1 and V-2, which hold all of the Debtor portfolio companies and all of the non-Debtor portfolio companies covered by the proposed 26-week budget. Ex. I, Dr. Strebulaev Expert Report ¶ 47. Comingling assets across pools in the manner contemplated by the Debtors therefore violates the LPA.

18. The Debtors further stray from the LPA in their characterization of the $17 million in cash that they have on hand, which they claim is "not subject to the lien of any creditor." First Day Hr'g Tr., Dec. 17 at 19:9–12. The LPs hold an equitable interest in all of the cash the Debtors propose to spend and have budget approval rights with respect to that cash, as confirmed by the Delaware Chancery Court. Ex. A, Chancery Court Post-Trial Op. at 6 ("The LPA thus granted Rigmora the right to approve budgets for projects before the General Partner can call capital for those projects."). Although the Debtors have not answered the LPs' questions about this cash, it is traceable to an earnout on an earlier sale of one of the Fund's portfolio companies—Tendyne—as well as the early repayment of convertible loan notes by another portfolio company, Braeburn

Inc.[6] Ex. J, Sept. 8, 2025 Letter from Walkers ¶¶ 7–11. The Debtors received approximately $61 million from these two sources and, in turn, made approximately $39 million in payments to several portfolio companies and to counsel without approval from the LPs. *Id*. Contrary to the Debtors' representations, these sums are not a slush fund to be spent in their discretion. Rather, they are proceeds from investments in which the LPs hold equitable title and that must be treated in accordance with the LPA.

19. As of now, in addition to approximately $17 million of cash from Fund investments that should have been distributed prior to the petition date, the Fund holds approximately $97 million in cash paid by the LPs post-petition in full satisfaction of the Delaware Chancery Court's judgment and the underlying capital calls. Hr'g Tr., Dec. 17, 2025 at 73:13–17 Although those capital calls related to specific portfolio companies and the management company, and although some of the amounts called have already been funded from other sources in the interim (as to which the LPs reserve their rights), the LPs are prepared to work with Debtors' representatives to make these funds available to pay reasonable expenses needed to maintain the status quo and such further investments as can be demonstrated to be in the interest of the Fund.

ARGUMENT

I. The Operational Motions Do Not Satisfy the Standard for Court Approval under Section 363.

20. As the LPs have asserted in the LP Motions—but will repeat here because it is relevant to the Funding Motion that seeks to use assets of the Fund without the LPs consent under the guise of sections 363 and 541 of the Bankruptcy Code—the Fund is not a proper debtor and its

[6] All of the Fund's assets are held through distinct pools. Ex. A, Chancery Court Post-Trial Op. at 12, 47 n.269. To the greatest extent possible, these pools must be operated and accounted for separately, Ex. K, LPA Amendment No. 13 ¶ 17(a), eliminating the GP's ability to commingle assets and liabilities. Braeburn is held in Pool Braeburn and the right to receive the earnout payments from the sale of Tendyne is held in Pool IV.

assets are not within the *in rem* jurisdiction of this Court. *See* Lift Stay Motion ¶¶ 6, 11, 22–25, 35, 66 n.14; Motion to Dismiss ¶¶ 11, 61. The Fund is governed by the LPA, which is, in turn, governed by the law of the Cayman Islands and is expressly subject to the Cayman Islands Exempted Limited Partnerships Act (the "**ELP Act**"). Ex. F, LPA ¶ 18(g)(i). Under applicable Cayman Islands law, "[a]n exempted limited partnership is not an entity with a separate legal personality," and it "cannot own property in its own right." *Declaration of Mark Phillips KC in Support of Motion of Rigmora Biotech Investor One LP and Rigmora Biotech Investor Two LP for Relief from the Automatic Stay* [Docket No. 126] ¶ 52 n.44 (quoting *Re Padma Fund LP* [2021] (2) CILR 556 at [25])) (hereinafter referred to as "**Phillips Dec.**"); *see also Declaration of Liam Faulkner in Support of Rigmora Biotech Investor One LP and Rigmora Biotech Investor Two LP's Motion for an Order (I) Dismissing the Chapter 11 Cases and/or (II) Granting Relief from the Automatic Stay* [Docket No. 4] ¶ 20 (hereinafter referred to as "**Faulkner Dec.**"). Instead, "any rights or property" of a Cayman exempted limited partnership ("**ELP**") "shall be held or deemed to be held by the general partner . . . upon trust as an asset of the exempted limited partnership in accordance with the terms of the partnership agreement." Phillips Dec. ¶ 51 (quoting ELP Act § 16(1)). The general partner thus "holds the assets of the ELP on trust for the limited partners" and owes fiduciary duties to the limited partners. *Id.* ¶¶ 52, 74–81; *see also* Faulkner Dec. ¶¶ 23, 29. Indeed, in the context of the Fund, the GP Debtor's *only* duty is to the LPs and the GP Debtor must act in the best interest of the LPs, including when focused on the portfolio companies.

21. The Funding Motion highlights the importance of this gating issue in these chapter 11 proceedings, as the Debtor GP, once again, seeks to use Fund assets that it holds in trust for the LPs, without the LPs' consent and in a manner inconsistent with the fiduciary duties owed

to the LPs.[7] Although the LPs continue to reserve all rights with respect to this important issue, the Court need not resolve it to rule on the Operational Motions currently pending before it because the LPs would not object to loans from the Fund to the Debtor portfolio companies in order to pay for expenses required to maintain the status quo on an interim basis. This would be solely to allow the Debtors, with input from the LPs who are the primary economic party in interest, to sort the portfolio companies into winners and losers and either find outside investors or pursue an appropriate, court-supervised sale process for portfolio companies in which it does not make sense for the Fund to continue investing. The Debtors, however, have failed to provide sufficient information for the LPs to assess whether the proposed funding would be limited to such purposes. Accordingly, the LPs have yet again been forced to file this Limited Objection to reserve their rights with respect to the Operational Motions.

22. Even assuming arguendo, for purposes of resolving these motions, that the Fund's assets are property of the estate and subject to the jurisdiction of this Court, the Debtors must satisfy the standards of section 363 of the Bankruptcy Code. The Debtors have failed to do so and thus the motions should not be granted in their present form.

23. Under section 363, a debtor-in-possession may continue to use its assets in the ordinary course of business operations, but any use of property outside the ordinary course requires court approval, and the debtor must justify its actions as an appropriate exercise of its sound business judgment. 11 U.S.C. § 363(b)(1); *In re Montgomery Ward Holding Corp.*, 242 B.R. 147, 153 (D. Del. 1999); *In re Lionel Corp.*, 722 F.2d 1063, 1071 (2d Cir. 1983). The purpose of this section is to prevent a debtor from "acting unilaterally" and "to protect both debtors and creditors

[7] The LPs note that the Court *may*, but need not, rule on this same issue in the context of the pending LP Motions to dismiss and lift the automatic stay, which the LPs have agreed to briefly postpone to accommodate the Debtors' request for a deposition of Mark Phillips.

. . . by subjecting [these] actions to complete disclosure and review by the creditors of the estate and by the bankruptcy court." *See Martin v. Martin*, 91 F.3d 389, 395 (3d Cir. 1996).

24. To evaluate this question, the Court must undertake a "two-step inquiry" comprised of the "horizontal dimension test" and the "vertical dimension test." *In re Roth American, Inc.*, 975 F.2d 949, 952 (3d Cir. 1992) (internal quotation marks omitted). Under the horizontal test, the Court must evaluate "whether, from an industry-wide perspective, the transaction is of the sort commonly undertaken by companies in that industry." *Id.* at 953. Under the vertical test, the Court must assess "from the vantage point of a hypothetical creditor . . . whether the transaction subjects a creditor to economic risk of a nature different from those he accepted when he decided to extend credit." *Id.* (quotation marks omitted). The crux of this inquiry is "interested parties' reasonable expectations of what transactions the debtor in possession is likely to enter in the course of business," and in undertaking that inquiry, the Court should consider "the debtor's pre-petition business practices and conduct" as well as "the changing circumstances inherent in the hypothetical creditor's expectations." *Id.* (quotation marks omitted).

25. To the extent that a debtor proposes to use funds outside the ordinary course of business, section 363(b) of the Bankruptcy Code requires that court approval be obtained, and the debtor bears the burden to show that a "use, sale or lease out of the ordinary course of business will aid the debtor's reorganization[.]" *In re Lionel Corp.*, 722 F.2d at 1071. The Court must then "expressly find from the evidence presented" by the debtor that there is a "good business reason" that has been articulated for the proposed use of estate property. *Id.* In undertaking its review, the Court should "carefully weigh all supporting and opposing views [to] determine[,] in the Court's judgment, whether the debtor's decision makes good business sense," *In re Kidde-Fenwal, Inc*., No. 23-10638 (LSS), 2023 Bankr. LEXIS 3065, at *3 (Bankr. D. Del. Nov. 8, 2023), including a

consideration of all salient factors that "further the diverse interests of the debtor, creditors and equity holders, alike," *In re Lionel Corp.*, 722 F.2d at 1071.

A. The Requested Relief is Outside the Ordinary Course of Business.

26. In most chapter 11 cases, where the debtor's professionals have undertaken the requisite diligence before petitions are filed, the full suite of first day motions is promptly filed with the needed level of detail for the court and parties in interest to evaluate whether the proposed uses of estate property are in the ordinary course. That is not the case here. As recounted earlier in this Limited Objection, the Debtors have filed slapdash, hurried pleadings that have required supplementing and changing. Together and individually, the Operational Motions fail to provide the information needed to determine whether their proposed uses of estate property are in the ordinary course of business, and what information they do include is incomplete and conflicting.

27. For example, the entire Funding Motion is squarely outside the ordinary course of business.[8] Specifically, as supplemented by a revised budget provided to the LPs on January 11, 2026, the Funding Motion seeks permission for the Fund to loan over $28.6 million to the Debtor and non-Debtor portfolio companies to restart furloughed research and development, a proposal that is clearly a use of assets outside the ordinary course as those operations had ceased prepetition, and falls far short of the necessary standard under section 363(b) of the Bankruptcy Code because it makes no business sense at all.[9] *See* Funding Motion ¶ 9. In the ordinary course, the Fund has made *equity* investments in the portfolio companies under budgets approved by the LPs and share purchase agreements concluded with those portfolio companies. Ex. L, ATP Post-Trial Br. at 16–

[8] The right of the LPs to raise this objection was expressly preserved in paragraph 8 the Funding Interim Order.

[9] Of course, as previously described, the LPs do not believe that section 363 of the Bankruptcy Code applies at all because the Fund's assets are held in trust for the benefit of the LPs.

22. The only precedent that the Debtors identify for funding portfolio companies through loans or without an approved budget is "emergency 'drip' funding" that the Fund started providing to the portfolio companies "on a secured basis in the form of secured promissory notes" beginning in June 2025. *See* Funding Motion ¶ 11; Ex. M Apertor Secured Promissory Note (entered on June 11, 2025); Ex. N, Evercrisp Secured Promissory Note (entered on June 11, 2025); Ex. O, Initial Secured Promissory Note (entered on July 24, 2025); Ex. P, Marlinspike Secured Promissory Note (entered on June 11, 2025); Ex. Q, Nereid Secured Promissory Note (entered on June 11, 2025); Ex. R, Nine Square Secured Promissory Note (entered on July 24, 2025). A transaction done on an emergency basis, beginning a half-year ago, is self-evidently *not* a transaction undertaken in the ordinary course of the Fund's business. And, as again described in paragraphs 7 and 8 of the accompanying declaration supporting the motion submitted by the Debtors' CRO at Docket No. 90, that funding was made available to preserve assets, not to launch new research programs. The proposed funding, for external research and development costs, which would use well over $28 million is thus outside the ordinary course of the Fund's business.

28. Further, the proposed funding for the portfolio companies disregards at least three provisions of the LPA: (1) the LPs have budget approval rights, (2) funds must be accounted for and used on a pool-by-pool basis, and (3) funds may only be called for a specific company with an approved budget. *See* Ex. S, LPA Amendment 3 at 2 (LPA ¶ 5(a)(ii)–(iii)) (providing that capital for portfolio companies can only be called for projects approved, writing, "in accordance with a budget" approved by the LPs); Ex. A, Chancery Court Post-Trial Op. at 47, 67–76. Funding done in violation of the Debtors' contractual duties under the LPA is also plainly outside the ordinary course of business. *See, e.g.*, *In re HardRock HDD, Inc.*, 569 B.R. 443, 450 (Bankr. E.D.

Mich. 2017) (finding that renting equipment was outside the ordinary course of the debtor's business when doing so would be "in knowing violation of its contracts with others").

29. The Debtors have similarly failed to show that their proposed payment of $750,000 of a $3 million annual fee to a company wholly-owned by Dr. Harrison is in the ordinary course of business or supported by reasonable business judgment, because the fee is not actually due and payable by its terms. As noted earlier in this Limited Objection, the management fee must be reduced to reflect amounts realized from the exercise of Dr. Harrison's stock options in Akero, a former portfolio company. The payment of amounts to parties who are not contractually entitled to them cannot be an ordinary course use of the Debtors' funds. And even if the amounts were owed under this prepetition insider contract, there is (unfortunately) *no* evidence that Dr. Harrison will leave the Debtors' employ if the fee is not paid. Funding Motion ¶¶ 15, 26.

B. The Debtors' Proposed Uses of Property Lack Appropriate Business Justification.

30. The Debtors would have this Court believe that all their proposed uses of estate assets are "merely to 'keep the lights on'" and preserve money already invested. *See* Funding Motion ¶ 25. But, just as the Debtors have not provided enough information to assess whether the proposed uses of property are in the ordinary course of business, they have not given anything close to a sufficient rationale for uses of property that are unlikely to create a reasonable return for the Fund, like (but not limited to) those described in this Limited Objection: in short, the Debtors have failed to meet their burden to show that the proposed uses of estate property are value-preserving, let alone value-maximizing for the estate. The failure to provide such information—and, even more so, the Debtors' unwillingness so far to engage productively to answer the LPs questions on these points—illustrates the fundamental issue underlying disputes in these chapter 11 cases—namely, the Fund Level Debtors' failure to abide by their fiduciary duty

to protect and conserve property in their possession for the benefit of stakeholders, and in particular, the LPs. *See In re Marvel Ent. Grp.*, 140 F.3d 463, 474 (3d Cir. 1998).

31. The LPs can only surmise that the Debtors' failure to explain the business judgment rationale for many of their proposed investments is because no such well-reasoned justification exists. Although the proposed 26-week budget prepared by the Debtors references "individual company research program requirements and milestones," which are presumably essential to understanding what the Debtors hope to achieve by investing tens of millions of dollars, the Debtors' professionals have so far not answered the LPs' questions about those requirements and milestones. *See* Ex. T, Email from W.H. Taft, Jan. 11, 2026. Indeed, it is unclear whether such plans exist or have been reviewed by the CRO, precluding any finding that that a good business reason supports the expenditures.

32. The biotechnology industry—particularly early-stage biotech—is expensive and speculative, according to the GP's own expert during the Court of Chancery case. Ex. U, Dr. Rao Expert Report ¶ 28. *See also* Chancery Trial Tr., Oct. 16–17, 2025 at 430:10–12 ("[T]he entire process is frequently said to cost $2 billion"); Ex. U, Dr. Rao Expert Report ¶ 31; Chancery Trial. Tr., Oct. 16–17, 2025 at 430:10–12. Given the risk of failure, an early-stage biotech company's value depends on achieving two major inflection points: nominating a development candidate ("**DCN**") and then completing an Investigational New Drug Application ("**IND**") which, if approved, permits the investigational drug to be tested in human clinical trials. Chancery Trial. Tr., Oct. 16–17, 2025 at 428:23–429:9. Biotech companies are incredibly risky and costly investments even after they have achieved these milestones, as only about 10% of candidates in clinical trials receive FDA approval, and the trials alone can cost hundreds of millions of dollars. Ex. U, Dr. Rao Expert Report ¶ 28, 34. But that significant risk means companies without an IND

are particularly difficult to value as their chance of success is lower, even by the standards of a risky field. *See* Ex. E, Chancery Trial Tr., Oct. 16–17, 2025 at 429:24–430:6.

33. Here, there is no evidence presented in support of the Funding Motion that *any* of the Debtor portfolio companies are likely to achieve any value inflection milestones that might justify additional spending, or that such progress could be achieved in the near term. Their recent track record strongly suggests no such evidence exists. For example, the LPs had invested $27.73 million in Debtor Marlinspike prior to the Chancery Court ruling. Ex. C, Q2 2025 Quarterly Digest at 13. Despite that significant funding, Marlinspike has failed to nominate a drug candidate and has not indicated that it is close to doing so. *Id*. Indeed, in August 2024, the Fund's Chief Scientific Officer observed that funding Marlinspike "with [n]o drug in sight" is "[c]raziness." Ex. E, Chancery Trial Tr., Oct. 16–17, 2025 at 414:6–22 (Ehlers). The LPs similarly invested $26 million in Debtor Evercrisp prior to the Chancery Court ruling and it, too, failed to nominate a drug candidate (despite predicting it would complete an IND by Q2 2024). *Id*. at 12; Ex. V, Dr. Rimm Expert Report Fig. 9. The proposed 26-week budget contemplates the investment of $28.6 million in new research expenditures, but lacks any description of how that money will be spent, what progress is reasonably expected to be achieved with those funds, and how that progress would maximize or increase the value of the portfolio company *to the LPs*.

34. Similarly, for the non-Debtor portfolio companies, Aethon, Aulos, Nereid, and Replicate, for which the Debtors propose spending approximately $16.54 million on research and development, there is no explanation for what return is expected from those expenditures. In addition, the Debtors have, yet again, neglected to account for the fact that Aulos, Nereid, and Replicate have exhausted their approved budgets and thus cannot be funded consistent with the LPA. Ex. C, Q2 2025 Quarterly Digest at 4 (Aulos and Nereid); *see also* Ex. A, Chancery Post-

Trial Op. at 65 (Replicate). While it is likely that the LPs would agree to fund additional research and development at one or possibly more of these companies if a reasonable business plan were presented, they could not do so based on the dearth of information provided, just as this Court lacks an adequate record to conclude that these unbudgeted expenditures are supported by a good business reason.

35. The other Operational Motions fall similarly short. For example, in the proposed Final Wages Order attached to the Supplemental Wages Motion, the Debtors state that no "non-ordinary course bonus, incentive, or severance payments [will be made] to their Employees or any Insiders . . . without further order from this Court," and "no bonus, incentive, or severance payments shall be made to any Insider without further order of this Court." *See* Final Wages Order ¶ 5. Paragraph 6 of the proposed Final Wages Order also states that the order does not provide authorization for the payment for "satisfaction of bonus or severance obligations, or which are subject to section 503(c) of the Bankruptcy Code." However, to whom these payments will be made, their insider status, and the underlying prepetition bonus policy remain unclear. Although the LPs would be open to discussing the Debtors paying ordinary course bonuses to non-insiders, particularly if consistent with prepetition contracts or policies, the Debtors have so far been unwilling to answer the LPs' questions about the bonuses or their rationale. Moreover, the revised budget provided to the LPs on January 11, 2026, indicates that the Debtors intend to pay bonuses to statutory insiders, including officers and other key decisionmakers, which is particularly confusing given the contrary representations in the Debtors' pleadings.[10] No relief should be granted until these questions and discrepancies are answered.

[10] It is unsurprising that the Debtors have made this representation, given the very high standard they would need to meet under section 503(c)(1) of the Bankruptcy Code for payment of bonuses to insiders. *See In re Nellson Nutraceutical, Inc.*, 369 B.R. 787, 790, 800 (Bankr. D. Del. 2007).

36. The Debtors' Cash Management Supplement suffers from similar flaws. Although the motion purports to seek permission to continue operating the Debtors' cash management system "in the ordinary course of business on a post-petition basis in a manner consistent with past practice," it provides *no* information regarding (i) what the "legitimate business expenses" are that are covered by the corporate credit cards issued to certain of the portfolio companies; (ii) what policies and oversight are in place to monitor such pending; nor (iii) Debtor Evercrisp's $28,000 monthly spend on the corporate cards, which is much higher than the monthly spend provided for the other Debtor portfolio companies. Cash Management Supplement ¶¶ 22–23; Initial Cash Management Motion ¶ 36. Again, absent such information, it is impossible to assess the ordinary course nature of these expenses or what the business justification is for such expenses.

37. Even the motion for the Debtors to employ ordinary course professionals lacks adequate support. The Debtors seek authority to spend up to $1 million a month to employ what they term "ordinary course professionals," without providing *any* details regarding the nature of the services or why they are necessary. *See* Ordinary Course Professional Motion, Ex. 1. While the LPs recognize that the Ordinary Course Professionals Motion is a procedural motion that does not, in itself, approve any particular budgeted spend, the requested relief—which relaxes what would otherwise be standard reporting requirements—is concerning because it contemplates spending orders-of-magnitude greater than reflected in the thirteen-week budget submitted with the Supplemental Mandarino Declaration. *See* Supplemental Mandarino Declaration, Ex. B. There may be a plausible explanation for this disparity, but the onus is on the Debtors to provide it, and so far they have not done so. The requested relief should not be approved until the Debtors have resolved their inconsistencies and explained the proposed spend.

II. The LPs Otherwise Reserve Their Rights With Respect to the Funding and Damages.

38. In addition to reserving the arguments raised in the pending LP Motions which affect all aspects of the proceedings commenced by the Fund-Level Debtors ATP Life Science Ventures, L.P and ATP III GP, Ltd., the LPs reserve their rights to object to any expenditures made pursuant to the Debtors' proposed orders to the extent not in accordance with LP-approved budgets, the LPA and applicable law, including as to the allocation and characterization of such expenditures for purposes of Fund accounting. The LPs further reserve their rights to seek damages for any breaches of fiduciary duties owed to them arising from decisions made in connection with these chapter 11 proceedings, including the GP Debtor's bad faith decision to file chapter 11 petitions for the Fund and the GP Debtor.

CONCLUSION

WHEREFORE, the LPs request that any interim relief already entered on the Operational Motions should remain interim, the Funding Motion should be continued on an interim basis according to a budget that is consistent with the budget under the Funding Interim Order and provides for only strictly necessary spending, and the other Operational Motions should not be approved on a final basis. The LPs submit that any orders should provide for customary oversight mechanisms and should not permit the Debtors to pay bonuses to insiders, commence new research and development spending at the portfolio companies, or pay the disputed management fee to ATVM at least until the LP Motions have been adjudicated.

Dated: January 13, 2026
Wilmington, Delaware

Respectfully Submitted,

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EXHIBIT A

IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

ATP III GP, LTD., in its capacity as General Partner of ATP Life Science Ventures, L.P.,	)	
Plaintiff,	)	
v.	)	C.A. No. 2025-0607-KSJM
RIGMORA BIOTECH INVESTOR ONE LP and RIGMORA BIOTECH INVESTOR TWO LP,	)	
Defendants.	)	

POST-TRIAL MEMORANDUM OPINION

Date Submitted: December 3, 2025
Date Decided: December 5, 2025

Michael A. Barlow, Shannon M. Doughty, Morgan R. Harrison, QUINN EMANUEL URQUHART & SULLIVAN LLP, Wilmington, Delaware; Garrett B. Moritz, Roger S. Stronach, A. Gage Whirley, ROSS ARONSTAM & MORITZ LLP, Wilmington, Delaware; Andrew M. Berdon, Rachel E. Epstein, Kathryn D. Bonacorsi, Jonathan M. Acevedo, Taylor L. Jones, Jenny Braun, QUINN EMANUEL URQUHART & SULLIVAN, LLP, New York, New York; Jessica T. Reese, John F. Ferraro, QUINN EMANUEL URQUHART & SULLIVAN, LLP, Boston, Massachusetts; *Counsel for Plaintiff ATP III GP, Ltd.*

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McCORMICK, C.

The plaintiff is the general partner of a Cayman exempted limited partnership that holds a portfolio of Delaware life science companies. The plaintiff sued its limited partners to enforce capital calls, to force them to work in good faith to approve budgets for the portfolio companies, and to obtain declarations concerning the plaintiff's rights under the fund agreement. The funding freeze at issue here placed several of the portfolio companies at risk of insolvency, and so the court entered a highly expedited schedule leading to trial.

This post-trial decision orders specific performance of all but one of the capital calls and otherwise sides with the limited partners. The plaintiff's effort to force budget approvals rests on an implied contractual duty of good faith recognized under Cayman law, a duty that constrains the exercise of discretionary contractual rights when it is implied. Although Cayman law recognizes this implied duty, no court has implied the duty in the context of an exempted limited partnership. This court will not be the first. And the plaintiff's requested declarations that are ripe, which also implicate primarily Cayman law, do not relate to the capital call or budgeting issues that warranted expedition of this case. They relate mainly to issues pending parallel proceedings in a Cayman court. This court thus defers to the Cayman court on those issues.

That's a highly abbreviated summary of what follows. Given the precarious position of the affected portfolio companies, the court worked hard to issue this decision promptly.[1] Wasting no time on wordsmithing, this introduction foregoes an

[1] The plaintiff requested that the court issue this decision on or by December 5, 2025.

extensive and riveting account of the facts learned at trial—the deeply human story of a fund formed by two doctors-turned-businessmen motivated to develop drug therapies that improve human health, their many successful years of collaboration, the temporary surge in early stage biotech investment spurred by a global response to the pandemic, the geopolitical events and attendant adjustments to risk strategies that strained the parties' relationship, and the complex legal framework governing their dispute. Although the court streamlined the decision given the press of time, these details and more follow.

I. FACTUAL BACKGROUND

Trial took place on October 16 and 17, 2025. The record comprises 1,930 trial exhibits, live testimony from five fact witnesses and three expert witnesses, deposition testimony from four fact witnesses, and 57 stipulations of fact.[2] These are the facts as the court finds them after trial.

[2] This decision cites to: C.A. No. 2025-0607-KSJM docket entries (by docket "Dkt." number); trial exhibits (by "JX" number); the trial transcript, Dkts. 277–79 ("Trial Tr."); and stipulated facts set forth in the Parties' Stipulation and Pre-Trial Order, Dkt. 209 ("PTO"). The parties called the following fact witnesses: Yuri Bogdanov (Rigmora CEO), Seth Harrison (ATP Founder and Managing Partner), Spiros Liras (ATP Venture Partner), Dmitry Rybolovlev (Rigmora Founder), and Joseph Yanchik (ATP Venture Partner). The parties called the following expert witnesses: Ilonna Rimm (Rigmora Biotechnology Investing Expert), Mark Robbins (ATP Biotechnology Investing Expert), and Ilya Strebulaev (Rigmora Venture Capital Expert). The parties submitted the deposition transcripts of the live witnesses and called the following witnesses by deposition only: Michael Ehlers (ATP Chief Scientific Officer, Venture Partner, and Portfolio Company Officer & Director), William Engels (ATP CFO), Daniel Finkelman (ATP General Counsel), and Alexey Yakovlev (Rigmora CFO). Depositions transcripts are cited using the witnesses' last name and "Dep. Tr."

A. The Fund And The Limited Partnership Agreement

In 2012, Dr. Seth Harrison and Dr. Dimitry Rybolovlev formed Apple Tree Partners IV, L.P., which was later renamed to ATP Life Science Ventures, L.P., a Cayman Islands exempted limited partnership (the "Fund").[3]

Both Harrison and Rybolovlev were medical doctors. Harrison received his M.D. from Columbia Medical School[4] and worked as a surgeon at a New York City hospital for a year.[5] He then left the field of medicine to attend Columbia Business School.[6] After business school, in the 1990s, he joined a large venture capital firm and formed Apple Tree Partners I to hold his life-science investments.[7]

Rybolovlev received his medical degree in 1990 from Perm Medical Institute and practiced medicine for a year after.[8] He switched careers in the 1990s when the Soviet Union was privatizing.[9] Rybolovlev acquired stakes in multiple companies before consolidating his investments in the most successful, a fertilizer manufacturer named Uralkali.[10] Rybolovlev acquired voting control of Uralkali by 2000, instituted "western style" corporate governance mechanisms,[11] and took it public in 2007 on the

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[3] PTO ¶ 23.

[4] Trial Tr. at 7:22–8:1 (Harrison).

[5] *Id*. at 8:1–3 (Harrison).

[6] *Id*. at 8:2–16 (Harrison).

[7] *Id*. 8:13–21 (Harrison).

[8] *Id*. at 345:2–14 (Rybolovlev).

[9] *Id*. at 346:8–347:1 (Rybolovlev).

[10] *Id*. at 347:2–16 (Rybolovlev).

[11] *Id*. at 347:20–348:5 (Rybolovlev).

London Stock Exchange.[12] Rybolovlev sold his interests in Uralkali in 2010, personally earning around $5 billion through the transaction.[13]

Rybolovlev decided to invest the proceeds in companies addressing the "three major ways" in which, in his view, the future of "humanity will benefit the most": "health, . . . food, and entertainment."[14] He ultimately invested in a diverse array of companies intended to fulfill these goals, including a cellular-based meat producer and AS Monaco Football Club.[15] To promote human health, Rybolovlev met with fund managers in the U.S. "to find an optimal way to invest in biotech industry."[16] He ultimately determined to replicate the investment strategy that led to his success with Uralkali, creating a "family-owned pharma company" using the "apparatus" of "venture capital."[17]

In 2010, a biotech analyst at Merrill Lynch introduced Harrison to Rybolovlev.[18] Harrison liked Rybolovlev's investment strategy.[19] Harrison and Rybolovlev formed the Fund to invest in and develop biotechnology.[20]

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[12] *Id.* at 348:6–7 (Rybolovlev).

[13] *Id*. at 348:11–13 (Rybolovlev).

[14] *Id.* at 351:2–6 (Rybolovlev).

[15] *Id.* at 351:7–352:6 (Rybolovlev).

[16] *Id*. at 349:24–350:5 (Rybolovlev).

[17] *Id.* at 16:18–23 (Harrison); *id*. at 350:6–9 (Rybolovlev).

[18] *Id.* at 9:10–14 (Harrison).

[19] *Id*. at 350:14–17 (Rybolovlev).

[20] *Id*.; *id.* at 9:24–10:10 (Harrison); *id.* at 349:20–351:9 (Rybolovlev); JX-1 (LPA) at 3; JX-1574 ("Bloch Report") ¶ 15.

ATP III GP, Ltd. ("ATP") serves as the General Partner of the Fund, and Harrison is the manager of ATP.[21] The Fund's largest limited partners, contributing approximately 98% of the Fund's overall capital,[22] are Defendants Rigmora Biotech Investor One LP and Rigmora Biotech Investor Two LP, both owned by Rybolovlev's family trust.[23] The Rigmora entities are successors-in-interest to the original limited partners Blue Horizon Enterprise Ltd. and Ezbon International Ltd. (together with the Rigmora entities, "Rigmora").[24]

On November 1, 2012, the parties entered into the First Amended and Restated Limited Partnership Agreement (the "LPA"), which governs the Fund's operations.[25] The LPA is governed by the law of the Cayman Islands.[26] The parties have amended the LPA twenty-two times.[27]

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[21] PTO ¶¶ 13, 15.

[22] JX-1237 at 4 (contributions through 2024); JX 1302 at 3–5 (showing Defendants' combined contributions accounted for about 98% of the Fund's ~$2.309 billion of capital contributions as of December 31, 2024); PTO ¶¶ 57, 59–61, 63 (contributions in 2025); Trial Tr. at 469:11–22, 470:12–17 (Yakovlev) (explaining how to navigate JX-1237 and calculate total contributions); *id.* at 208:10–18 (Strebulaev). Harrison and Les Pommes have contributed $54.7 million combined. JX-1400 ¶ 44; Trial Tr. 11:16–12:5 (Harrison).

[23] PTO ¶¶ 17–20; *see also* Trial Tr. at 270:12–271:3, 271:13–15 (Bogdanov).

[24] PTO ¶ 18; *see also* Trial Tr. at 11:4–7, 25:10–17 (Harrison).

[25] LPA; *see also* PTO ¶¶ 24–25.

[26] LPA ¶ 18(g).

[27] JX-1–JX-6 (LPA and LPA Ams. 1–5); JX-8–JX-17 (LPA Ams. 6–15); JX-19 (LPA Am. 16); JX-89 (LPA Am. 17); JX-126 (LPA Am. 18); JX-132 (LPA Am. 19); JX-222 (LPA Am. 20); JX-480 (LPA Am. 20); JX-1068 (LPA Am. 22).

At issue here, the LPA provides a framework for making capital calls and approving budgets.[28] Also relevant to this litigation, the LPA contains an "Exculpation Provision" that protects ATP from liability for actions taken in good faith that are not willful fraud, willful misconduct, gross negligence, or an intentional and material breach of the LPA.[29] It as well contains a "Discretionary-Action Provision" that grants ATP the discretion to take action against any limited partner who breaches the LPA.[30] The LPA's "Global Default Provision" authorizes ATP as General Partner to declare a Limited Partner who failed to honor its capital call obligations a "Defaulting Partner," and outlines a set of remedies that ATP can elect to pursue.[31] Those remedies include imposing a "Default Charge" by reducing the limited partner's preferred units.[32]

B. The Historical Budgeting Process

The LPA authorizes the General Partner to call capital for "Projects approved by" the Limited Partners "in writing" and "in accordance with a budget therefor approved" by the Limited Partners.[33] The LPA thus granted Rigmora the right to approve budgets for projects before the General Partner can call capital for those projects.

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[28] LPA ¶ 5(a); LPA Am. 3 ¶ 3.

[29] LPA ¶ 2(g).

[30] *Id.* ¶ 18(g)(iv).

[31] *Id.* 5(c).

[32] *Id.*

[33] LPA Am. 3 ¶ 5(a)(iii).

Until late 2024, the process by which the parties agreed on budgets began with informal discussions among Rigmora's Chief Investment Officer (whoever occupied that position at the time), Harrison, and Rybolovlev.[34] For each new Series A investment, Harrison and Rybolovlev met—often in person, although Harrison lives in the United States and Rybolovlev lives in Switzerland—to discuss the opportunity, its prospects for commercial and scientific success, and funding needs.[35]

Rybolovlev personally approved every new investment informally.[36] Once he did so, ATP prepared a packet of materials to secure formal approval.[37] The packet included things like a CFIUS memorandum,[38] a request for formal budget approval,[39] and an investment memorandum.[40]

ATP employees drafted the investment memoranda,[41] which served as a "roadmap from the implementation of a project all the way to the delivery of value as measured by exits."[42] The investment memoranda included the investment thesis, the investment rationale, and an assessment of the quality of the company's

[34] Trial Tr. at 14:1–24 (Harrison).

[35] *Id.* at 31:15–32:4, 33:5–10 (Harrison); *id.* at 349:9–14, 355:4–12 (Rybolovlev).

[36] *Id.*

[37] *Id.* at 32:19–33:4 (Harrison).

[38] JX-310 at 6–7.

[39] Trial Tr. at 31:15–33:4 (Harrison); *id.* at 355:9–18 (Rybolovlev).

[40] *Id.* at 32:19–33:4 (Harrison); *id.* at 245:13–17, 251:3–13 (Liras).

[41] *Id.* at 132:8–12 (Harrison).

[42] *Id.* at 241:21–24 (Liras).

founders.[43] The memoranda also contained performance milestones by which ATP could "measure progress against stated goals."[44]

As Harrison explained, milestones supplied a useful starting point in projecting a portfolio company's performance, but the initial milestones identified in the investment memoranda became less important in middle and later stages of the investment.[45] As the portfolio companies were "developing drugs from new technologies" and "working with teams of scientists of various stripes," their progress could not easily be predicted from the outset and they would often pivot if their initial strategy was not progressing well.[46]

In this litigation, Rigmora argues that the milestones served as conditions to Rigmora's obligation to fund approved budgets.[47] For this purpose, Rigmora cites to evidence reflecting the significance that ATP placed on milestones.[48] But that

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[43] *See, e.g.,* JX-150 at 8.

[44] Trial Tr. at 242:1–6 (Liras). They also included risk mitigation strategies, which could involve analyses of comparable companies to assess the novelty of the science and its potential value to patients and investors. *Id*. at 242:6–10 (Liras).

[45] Trial Tr. at 134:5–135:13 (Harrison).

[46] *Id*.

[47] JX-1579 ("Rimm Report") Figs. 5–11; *see also, e.g.*, JX-243 at 32 (Evercrisp) (dividing funding into "six milestone-driven tranches"); JX-114 at 1, 7, 32–33 (Apertor) (establishing $50m financing in "milestone-driven tranches"); JX-269 at 27 (Red Queen) (establishing tranches "based on milestones and progress").

[48] *See* Dkt. 269 ("Rigmora Post-Trial Br.") at 8, 28 (citing investment memoranda explaining the significant of milestones, JX-243 at 32, JX-309 at 4, JX-269 at 27; Ehlers's testimony that milestones were valuable for focusing the company's management and protecting investors, Trial Tr. at 403:20–404:2 (Ehlers); and Harrison's investment deck characterizing the Fund's investing practices as "[d]iscipline funding" consisting of "[m]ilestone-based tranches infused over time," JX-2280 at 6).

evidence reflects that ATP viewed milestones as important tools for managing the portfolio companies. No evidence suggests that anyone intended the performance milestones identified in the investment memoranda to serve as conditions to Rigmora's obligation to fund budgets that it approved. Harrison and Rybolovlev never discussed nor negotiated the milestones.[49] Rigmora lacked the substantive expertise to set or track performance milestones.[50] Only two of the approved budgets contained any express milestones, and they were based on corporate strategy metrics.[51] The fact that certain of the Rigmora approved budgets contained express milestones suggests that the parties did not intend to condition the other budgets on milestones contained in the investment memoranda.

After formal budget approval, the Fund would enter into Series A stock purchase agreements with the relevant portfolio companies.[52] ATP viewed the Series A commitments as key to recruiting top scientists and staff.[53] This is because most of the Fund's portfolio companies rely on funding from the Fund exclusively.[54]

[49] *Id*. at 33:11–14 (Harrison).

[50] Bogdanov Dep. Tr. at 31:2–9; 45:23–46:10; 46:11–15; Blöchlinger Dep. Tr. at 37:17–25; Yakovlev Dep. Tr. at 30:23–31.

[51] *Id*. at 33:23–34:5 (Harrison); JX-1192 at 2.

[52] Trial Tr. at 34:19–35:2 (Harrison).

[53] JX-1174 at 2.

[54] Trial Tr. at 20:8–21:1 (Harrison).

C. Rigmora's Capital Commitments

Since the inception of the Fund, Rigmora agreed to multiple capital commitments. The LPA limits ATP's right to call capital to the maximum amount of money each limited partner, including Rigmora, committed to the Fund, which the LPA refers to as a limited partner's "Contingent Subscription."[55] Rigmora's commitments began with an initial commitment of $1.425 billion alongside the November 2012 LPA and were followed by additional commitments negotiated in connection with amendments to the LPA.

1. Rigmora Commits $1.425 Billion To Establish The Fund.

The parties agreed to capitalize the Fund with $1.5 billion initially.[56] Rigmora would supply $1.425 billion and Harrison would supply the remaining $75 million pursuant to a loan from Rigmora.[57] Rigmora made its initial capital commitments totaling $1.425 billion on November 1, 2012, under subscription agreements signed by Blue Horizon for $698.25 million and Ezbon for $726.75 million.[58] The

[55] LPA ¶ 5(a)(i).

[56] Trial Tr. at 350:18–23 (Rybolovlev).

[57] PTO ¶¶ 26–27; Trial Tr. at 23:16–25:22 (testifying that Rigmora's total subscription at the time the parties executed the LPA was $1.425 billion when combining Blue Horizon's and Ezbon's subscriptions); JX-212 at 19–23; JX-213 at 19–23; JX-216 at 19–23; Trial Tr. at 25:18–26:3 (Harrison); *id*. at 354:12–19 (Rybolovlev); *see also* JX-1, Sch. D (describing Rigmora's financing of Harrison's capital contributions).

[58] JX-212 at 19–23 (signature pages); JX-213 at 19–23 (signature pages); Trial Tr. at 25:18–22 (Harrison).

subscription agreements were "[s]ubject to the terms and conditions set forth in . . . the [LPA]."[59]

Rigmora also agreed to "make such other capital contributions and payments to the Fund as provided for in the LPA, in the manner and at the times provided in the [LPA]," and to become "bound by the terms of the [LPA]."[60] ATP's right to call capital, in addition to being limited in amount to each partner's Contingent Subscription, was restricted to contractually specified purposes.

2. The Parties Amend The LPA To Create Investment Pools.

Amendment 13 to the LPA, dated February 4, 2019, introduced a Fund structure through which commitments, assets, and contributions would be allocated and tracked across separate "pools."[61] The aim of the pool concept was to segregate money so that profits on new investments would not leak to former Fund employees.[62] As Harrison explained, "we had old teams and new teams coming in that would found [sic] new deals. So we needed to segregate their deals in a pool out of fairness."[63] Pools also allowed the parties to increase capital commitments without having to establish new entities, thus avoiding potential know-your-customer roadblocks.[64]

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[59] JX-212 ¶ 1; JX-213 ¶ 1.

[60] *Id.*

[61] JX-15 (LPA Am. 13) ¶ 17(a).

[62] Trial Tr. at 27:11–28:9 (Harrison)

[63] *Id.* at 27:13–17 (Harrison).

[64] *Id.* at 27:11–28:9 (Harrison).

Amendment 13 established two pools: Pool A, which held the existing projects, and Pool B, which held the Fund's new projects.[65] Rigmora was responsible for funding 100% of capital called for Pool B.[66] Amendment 13 stated that expenses "directly attributable" to a particular pool would be allocated exclusively to that pool with other expenses apportioned between the pools based on the relative cost basis of the remaining assets in each pool.[67] Amendment 13 identified the "Management Fee" paid to Harrison, and the "Apple Tree Life Sciences, Inc. Fee, or "ATLS Fee" for Fund expenses incurred across the portfolio companies, as expenses attributable to both pools.[68]

Amendment 13 further provided that "separate and distinct records shall be maintained for each Pool, and capital contributions . . . shall also be accounted for separately on a Pool-by-Pool basis."[69]

3. Rigmora Commits An Additional $1 Billion.

Rigmora increased its commitment to the Fund as early-stage biotech investment surged in 2020 and 2021, spurred by the global response to the Covid-19

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[65] LPA Am. 13 ¶ 17(a).

[66] *Id.*¶ 17(b).

[67] *Id.* ¶ 17(d)).

[68] JX-9 (LPA Am. 7) Schedule A ¶ 3; JX-19 (LPA Am. 13) ¶ 17(d). ATLS is a wholly owned subsidiary of the Fund that covers Fund operational expenses like facility costs, leases, rents, and employee costs. JX-9 (LPA Am. 7) Schedule A ¶ 3; Trial Tr. at 17:17–18:4 (Harrison). The parties allocated the Management Fee and ATLS Fee between the pools according to fixed percentages. LPA Am. 20 ¶ 6.

[69] LPA Am. 13 ¶ 17(a).

pandemic.[70] Amendment 17 to the Limited Partnership Agreement, dated September 9, 2020, committed Rigmora to fund an additional $1 billion to be allocated between Pool B and a new Pool C.[71] Thereafter, Pool A would consist of Rigmora's original $1.425 billion capital commitment and all economics of the Fund not expressly allocated to Pools B or C. Pools B and C would split Rigmora's new $1 billion commitment.[72]

Amendment 17 further specified that Pool B would contain: Chinook Therapeutics U.S., Inc.; Nine Square Therapeutics Corporation; and Initial Therapeutics, Inc., along with a proportionate share of the Management Fee and ATLS Fee.[73] Pool C would contain Kynos Therapeutics Ltd and any new projects after the execution of Amendment 17, along with a proportionate share of the ATLS Fee and Management Fee.[74]

Each of these pools would be funded "exclusively" by Rigmora, and "[a]ll capital invested in the Pool C Projects . . . [would] be treated as contributed to [Pool C]."[75]

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[70] Trial Tr. at 362:7–12 (Rybolovlev); *see also id.* at 402:20–22 (Ehlers); JX-1579 ¶ 19.

[71] Trial Tr. at 29:1–19 (Harrison); JX-89 (LPA Am. 17).

[72] LPA Am. 17 ¶ 20(a)

[73] *Id.*

[74] *Id.*

[75] *Id.* ¶ 20(b).

After Amendment 17, the parties executed amended subscription agreements under which Blue Horizon and Ezbon committed to contributing $490 million and $510 million, respectively, to Pools B and C.[76]

In Amendment 19, dated November 27, 2020, the parties renamed Pools A, B, and C, as Pool ATP IV, Pool ATP V-1, and Pool ATP V-2, respectively.[77] In their testimony, the witnesses further shortened the Pool names to Pool IV, Pool V-1, and Pool V-2,[78] and this decision follows suit.

D. Amendment 20 To The Limited Partnership Agreement

In 2021, while investments in early-stage biotech companies still surged, the parties decided to restructure the economic rights and obligations surrounding an existing Pool IV project called Braeburn Inc. The Fund founded Braeburn in 2012 as "a Phase 1 company."[79] By 2021, it was "market[ing] a drug for opioid addiction" and had around "$300 million in sales revenue."[80] Pool IV held Braeburn, but the company was "capital intensive."[81] So Rybolovlev agreed to fund the capital commitments to Braeburn, and ATP agreed to "change[] . . . carry economics in favor of [Rybolovlev]."[82] To facilitate this arrangement, the parties amended the LPA to

[76] Trial Tr. at 41:11–42:14 (Harrison); JX-99; JX-101.

[77] JX-132 (LPA Am. 19) ¶ 1; Trial Tr. at 28:22–24 (Harrison).

[78] *See, e.g.*, Trial Tr. at 40:19–23 (Harrison).

[79] Trial Tr. at 44:14–19 (Harrison).

[80] *Id.* at 44:13–21 (Harrison).

[81] *Id.* at 45:8–21 (Harrison).

[82] *Id*. at 45:8–24 (Harrison); LPA Am. 20 ¶ 21(b).

"segregate the investment in Braeburn."[83] Meanwhile, ATP had placed new executives in charge of existing projects.[84] This, coupled with changes at Braeburn, prompted a wholesale restructuring of Pool IV to allocate existing assets and liabilities to newly created pools and align managers' carried interests with their performance.[85]

In June 2021, the parties executed Amendment 20 to for this purpose.[86] Amendment 20 created two new pools.[87] The first, "Pool Braeburn," held Braeburn in a segregated fund for which Rigmora would be the exclusive source of capital.[88] The second, "Pool V-3," held seven companies formerly under Pool IV that "hadn't quite made it" and "would be managed by the members of our new team"[89]—Ascidian Therapeutics, Inc., Gala Therapeutics, Inc., Galary, Inc., Galvanize Therapeutics, Inc., Galaxy Medical, Inc., Intergalactic Therapeutics, Inc., and Marengo

[83] *Id.* at 44:22–45:2 (Harrison).

[84] *Id.* at 46:6–15 (Harrison).

[85] LPA Am. 20 ¶¶ 21(a), 22(a) (describing Pools V-3 and Braeburn as "consist[ing] of the assets, liabilities, income, gains, losses and expenses associated with the Partnership's investments" in the relevant portfolio companies); Trial Tr. at 44:22–45:11 (Harrison) (Pool Braeburn created to change "carry economics" for investment in Braeburn); *id.* at 39:21–41:10, 46:6–15 (Harrison) (Pool V-3 set up to segregate economics for new managers).

[86] Trial Tr. at 44:11–46:15 (Harrison).

[87] LPA Am. 20 ¶¶ 21, 22.

[88] LPA Am. 20 ¶ 21; *id.* ¶ 21(b) (stating that capital shall be called from Rigmora "exclusively" and that "[n]o other Partner shall be required to contribute capital to or in respect of Pool Braeburn").

[89] Trial Tr. at 46:6–15 (Harrison).

Therapeutics, Inc.[90] Amendment 20 also reduced Rigmora's funding commitments to Pool IV.[91]

The parties dispute whether Rigmora agreed to increase its overall capital commitments through Amendment 20. Before Amendment 20, Rigmora had committed a total of $2.425 billion: $1.425 billion to Pool IV and $1 billion to Pools V-1 and V-2.[92] Of that amount, Rigmora had contributed approximately $1.3 billion[93] to Pool IV and $58.5 million to Pools V-1 or V-2.[94] Rigmora's commitments thus left around $1.067 billion in head room in its Contingent Subscription to achieve the then contemplated projects.[95] In this litigation, Rigmora argues that $1.067 billion was

[90] LPA Am. 20 ¶ 22(a).

[91] LPA Am. 20 ¶ 24.

[92] PTO ¶ 30; JX-212 at 19–23 (Blue Horizon SA signature pages); -213 at 19–23 (Ezbon SA signature pages); LPA Am. 17 ¶ 20(a) (committing an additional $1 billion to Pools B and C); JX-99 ¶ 1; JX-101 ¶ 1; LPA Am. 19 ¶ 1 (renaming Pool A to Pool IV and Pools B and C to Pools V-1 and V-2 respectively).

[93] *See* JX-221, Tab "Capital Contributions – ATP IV," Cells D163, E163 (stating Ezbon and Blue Horizon contributed $662,918,351.14 and $636,921,696.00 to ATP IV respectively, which combined equals $1,299,840,047.14).

[94] *See id.*, Tab "Capital Calls – V-1 and V-2," Adding cells D23 and D47, the totals for Rigmora's contributions to V-1 and V-2, yields $58,486,530.

[95] As described in the legal analysis, immediately prior to Amendment 20's adoption, Rigmora committed $2.425 billion to the Fund. PTO ¶ 30; JX-212 at 19–23 (Blue Horizon SA signature pages); JX-213 at 19–23 (Ezbon SA signature pages); LPA Am. 17 ¶ 20(a); JX-99 ¶ 1; JX-101 ¶ 1; LPA Am. 19 ¶ 1. Rigmora's combined contributions to all pools immediately prior to Amendment 20's adoption was $1,358,326,577.14. JX-221, Tab "Capital Contributions – ATP IV," Cells D163, E163 (showing Rigmora's total contributions to Pool IV as $1,299,840,047.14); *id.*, Tab "Capital Calls – V-1 and V-2," Cells D23, D47 (showing Rigmora's total contributions to Pools V-1 and V-2 as $58,486,530). Subtracting Rigmora's capital contributions of $1,358,326,577.14 from its then current Contingent Subscription of $2.425 billion yields unfunded capital commitments of $1,066,673,422.86.

more than enough to accomplish anticipated projects. And the parties did not expressly amend the subscription agreements in connection with Amendment 20 as they had with prior LPA amendments.[96]

But Amendment 20 and communications leading up to it, all during the biotech boom, reflect that the parties anticipated unfunded commitments exceeding $1.067 billion, and total commitments from Rigmora exceeding $2.425 billion.

In May 2021, Harrison emailed a draft outline of the transaction to Rigmora's then-CEO and CIO Anna Kolonchina, who indicated Rigmora's assent to the outline a few days later.[97] The outline included a section titled "Remaining Unfunded Capital Commitments" of approximately $1.385 billion as follows: (1) $20 million for ATP IV; (2) $220 million for ATP V-1; (3) $664 million for ATP V-2; (4) $291 million for new Pool ATP V-3; and (5) $189.95 million for new Pool Braeburn.[98] Adding up Rigmora's obligation for those commitments (approximately $1.384 billion),[99] to its then-funded commitments ($1.3 billion) equals $2.684 billion.

On its face, Amendment 20 reflects a minimum in unfunded commitments of approximately $2.814 billion, more than those of the May 2021 outline.[100]

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[96] *See* PTO ¶¶ 26–27, 30 (listing amendments to subscription agreements).

[97] JX-195 at 1 (Kolonchina circulated a revised draft and stating it "make[s] sense to start drafting a long form" amendment).

[98] JX-195 at 4–5.

[99] Of that, Rigmora would be responsible for approximately $1.384 billion based on its agreement to fund 99.6028% of Pool IV and Pool V-3 and 100% of the remaining pools. JX-195 at 1, 4–5.

[100] LPA Am. 20.

Amendment 20 reflected anywhere from $304.6 to $309.2 million in contributions to Pool V-3[101] (more than the $291 million reflected in the outline). It also reflected a minimum of $189.9 million to Pool Braeburn plus a commitment to fund additional securities fees (thus likely more than the flat $189.9 million reflected in the outline).[102] Amendment 20 reduced the $1.425 billion commitment to Pool IV consistent with the email (subtracting approximately $92 million to even the

[101] As discussed in the legal analysis, to Pool V-3, Amendment 20 reflected a total commitment of $500 million. LPA Am. 20 ¶ 22(b). This included $189,544,660 in "deemed commitments" to the existing investments into the Pool V-3 companies and implied approximately $310.5 million in new commitments. *Id.* The new commitments expressly identify two new expenses totaling $305.8 million: $70,853,399 in previously approved, unfunded budgets and $235 million in additional commitments to those companies. *Id.* Amendment 20 further states that "Ezbon, Blue Horizon, Harrison, and Les Pommes shall contribute 50.7974%, 48.8054%, 0.1869%, and 0.2103%, respectively," to any unfunded remaining budgets. *Id.* Assuming the implied $310.5 million, then Rigmora would be required to contribute approximately $309.2 million. Assuming the expressly noted $305.8 million, then Rigmora would be required to contribute approximately $304.6 million. So Amendment 20 reflects anticipated additional capital commitments from Rigmora to Pool V-3 in a range of $304.6 million to $309.2 million.

[102] As discussed in the legal analysis, to Pool Braeburn, Amendment 20 reflected Rigmora's commitment of $189.9 million. LPA Am. 20 ¶ 21(a). Amendment 20 also committed Pool Braeburn to "any additional securities of Braeburn acquired by the Partnership after the date of Amendment 20" and fees and expenses related to Pool Braeburn. *Id.* ATP's former CFO Engels testified that the Braeburn later purchased $30.6 million in additional Series B shares for Braeburn and called approximately $9 million in expenses to Pool Braeburn. Engels Dep. Tr. at 355:3–15. The parties executed a settlement agreement in December 2024 to resolve a dispute that Rigmora initiated in Cayman. Trial Tr. at 71:5–10 (Harrison). Pursuant to that settlement, the parties waived the then-remaining $21.3 million in commitments to Pool Braeburn. Engels Dep. Tr. at 355:16–21; JX-1068 (LPA Am. 22); JX-1072.As Engels explained, these commitments "netted out to a total obligation of $208,355,000." Engels Dep. Tr. at 355:22–356:4. Even assuming that the parties did not know the precise costs of the additional securities, fees, and expenses at the time of executing Amendment 20, the Amendment anticipated $189.9 million in additonal funding to Braeburn.

commitment to the funds already contributed and adding the then-anticipated $20 million in fees)[103] but did not reduce the $1 billion commitment to Pools V-1/V-2.

And immediately following Amendment 20, ATP began calling committed capital from Rigmora and Harrison. On June 24, 2021, ATP transmitted a capital call to Rigmora for approximately $16.4 million, consisting of $2 million for Pool Braeburn, $1.6 million for Pool V-2, and $12.8 million in expenses charged to the pools, all split among Rigmora and Harrison in line with their commitment obligations to the pools.[104]

This capital call—and every call that followed—included as "Exhibit A" a tracker of the outstanding capital commitments.[105] The tracker included the amount of funds being called from each party on a pool-by-pool basis (including the breakdown of ATLS fees proportionately for each pool), and the amount of unfunded committed capital that would remain following the capital call.[106] Exhibit A to the June 2021 capital call evidenced a total remaining commitment of $1.447 billion.[107] Before this

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[103] The parties agreed to reduce Pool IV's remaining unfunded commitments from the initial $1.5 billion to approximately $20 million to be used to cover expenses, including the cost of litigating a then-ongoing portfolio company exit. JX-1061 (LPA Am. 20) ¶ 24. The actual cost of expenses related to that litigation, and what was ultimately paid into Pool IV after Amendment 20, totaled around $33.3 million. Engels Dep. Tr. at 321:20–322:22. Adding Rigmora's share of those costs to the amount Rigmora contributed to Pool IV prior to Amendment 20 equals $1,333,059,463.85. *See infra* § II.A.1.

[104] Trial Tr. at 47:10-48:3 (Harrison); JX-230 at 1–2.

[105] JX-230 at 4; Trial Tr. at 48:19–50:18 (Harrison).

[106] *Id.*

[107] JX-224 at 3.

litigation, no one at Rigmora (including then-CEO Kolonchina, who received these calls) ever objected to the accounting.[108]

E. Amendment 22 To The Limited Partnership Agreement

Biotech markets retrenched in 2022,[109] and Russia invaded the Ukraine early that year.[110] Rigmora's investment strategy and risk appetite changed after these events,[111] and the parties' relationship began to strain.[112] By 2023, Rigmora had started conditioning its capital contributions on budget reductions.[113] Braeburn had achieved commercial success.[114] The FDA approved Braeburn's drug Brixadi, transforming Braeburn into a commercial-stage company with multi-billion dollar potential.[115] In July 2021, Braeburn entered into a royalty purchase agreement with ATP which gave ATP a license to Braeburn's IP and the associated royalty

[108] Trial Tr. at 48:19–51:1 (Harrison); *id.* at 474:22–476:10 (Yakovlev) (testifying that he was "not . . . aware" of anyone at Rigmora challenging these records)

[109] *Id.* at 382:10–19 (Rybolovlev).

[110] *Id.* at 199:2–3 (Strebulaev).

[111] JX-463 at 2–3; Trial Tr. at 51:15–52:12 (Harrison). At trial, Rybolovlev denied that the invasion of Ukraine played a part in Rigmora's decision making. Trial Tr. at 352:20–353:3 (Rybolovlev).

[112] *See* Trial Tr. at 51:15–52:12 (Harrison).

[113] JX-698.

[114] PTO ¶¶ 48–50.

[115] *Id.*

payments.[116] And Rigmora demanded immediate distributions from Braeburn.[117] ATP refused the demand.[118]

Ultimately, ATP sued in the Cayman Islands to compel Braeburn distributions.[119] In that litigation, Rigmora previewed the defense it would make in this litigation. On October 10, 2024, Kolonchina filed an affidavit in the Cayman court.[120] The LPA authorizes the General Partner to request capital calls in "an amount equal to, *but not in excess of*" the "Contingent Subscriptions" as that term is defined in the LPA.[121] In an October 10, 2024 affidavit, Kolonchina stated, for the first time, that Rigmora's "combined Contingent Subscriptions are US$2.425 billion."[122] Because Rigmora had already funded $2.6 billion, in Rigmora's view, "it is therefore impossible" that Rigmora had outstanding Contingent Subscriptions.[123]

Rigmora did not stand on its newly formed legal defense in the Cayman litigation but instead agreed to meet its capital obligations.[124] The day that she filed her affidavit, Kolonchina stated in an email to ATP that Rigmora would pay a

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[116] JX-586 at 2,

[117] Trial Tr. at 67:9–68:14 (Harrison); PTO ¶¶ 51, 53.

[118] PTO ¶ 52.

[119] PTO ¶ 54; Dkt 57 ("Answer") ¶¶ 98, 100.

[120] JX-1002.

[121] LPA ¶ 5(a)(i) (emphasis added).

[122] JX-1002 ¶¶ 23–26.

[123] *Id.*

[124] JX-998 at 1.

pending capital call although it was "not obligated to do so."[125] By October 2024, Rigmora was explicitly disclaiming any obligation to respond to capital calls for budgets already approved in writing, insisting that further payments would be made only "on a voluntary basis."[126]

During this time, ATP portfolio companies were nearing the end of their Series A commitments and initial budgets, making new budgets critical.[127]

Harrison flew to Monaco and suggested to Rybolovlev that they settle the Cayman litigation.[128] This led to a "couple of days of meetings" where they "agreed to the basic outline of a settlement in order to continue to work together."[129] On December 20, 2024, the parties implemented the settlement terms through Amendment 22 to the LPA.[130]

Through Amendment 22, Rigmora agreed to "discuss" budgets for ATP portfolio companies in exchange for distributions from a newly secured Braeburn royalty valued at approximately $700 million.[131] Amendment 22 provides:

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[125] *Id.*

[126] *Id.*

[127] Trial Tr. at 72:6–73:10 (Harrison).

[128] *Id.* at 68:22–69:1 (Harrison).

[129] *Id.* at 68:24–69:4 (Harrison).

[130] *See* LPA Am. 22 ¶ 26; Trial Tr. at 275:6–21 (Bogdanov).

[131] LPA Am. 22 ¶¶21, 26. By this time, Braeburn was a successful public company and the Braeburn royalty reflected the Fund's share of the company's cash flows. Trial Tr. at 64:18–65:12 (Harrison). ATP removed the Braeburn royalty from the Fund into a separate entity, ATP LLC. *Id.* Amendment 22 allowed Rigmora to receive distributions from the Braeburn royalty. LPA Am. 22 ¶ 21.

> From and after the date of [Amendment 22], the General Partner and [Rigmora] shall discuss new budgets for the Partnership in accordance with the process set forth in this Agreement to allow it to invest in Ascidian Therapeutics, Inc., Aulos Bioscience, Inc., Nereid Bioscience, Incorporated, Nine Square Therapeutics Corporation and Replicate Bioscience, Inc. sufficient amounts to enable each of them to operate for a period of twelve months after the remaining unfunded amounts, if any, under their respective existing approved budgets are expected to have been fully utilized . . . .[132]

Amendment 22 noted, on its face, the projected dates by which each company would run out of cash: January 2025 for Aulos, February 2025 for Replicate, April 2025 for Nereid, May 2025 for Nine Square, and first quarter 2026 for Ascidian.[133]

At the same time, Amendments 22 created a "Royalty Financing" contingency. It stated that "[i]f any approval of a new budget is given by [Rigmora], *such approval shall be contingent upon* at least $300 million being realized (including through deemed distributions) by [Rigmora] on a sale or financing of its interest in ATP LLC."[134] Put differently, no budget for entities identified in Amendment 22 would be approved, and thus subject to capital calls, absent a Royalty Financing.

Harrison expected that the parties would work together to obtain the Royalty Financing.[135] These expectations were consistent with the terms of Amendment 22, which mandates that, in pursuing the financing, as well as approving budget proposals, each party would "do and perform, or cause to be done and performed, all

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[132] LPA Am. 22 ¶ 26.

[133] *Id.* ¶ 26.

[134] *Id.* ¶ 26 (emphasis added).

[135] Trial Tr. at 77:24–78:3 (Harrison).

such further acts and things . . . as any other party may reasonably request in order to carry out the intent and accomplish the purposes of this Amendment and the consummation of the transactions contemplated hereby."[136]

F. Rigmora's New Management Shifts Funding Priorities And Delays Budget Approvals.

In October 2024, Kolonchina left Rigmora,[137] and Rybolovlev promoted Yuri Bogdanov to CIO and co-CEO.[138] Rybolovlev had known Bogdanov for two decades.[139] Before Rigmora, Bogdanov had worked for Uralkali in Russia.[140] Prior to his elevation at Rigmora, Bogdanov worked as a special advisor for several years which entailed giving a "second opinion" and challenging management on investments and other matters.[141] Bogdanov was promoted due to his "general understanding" of Rigmora's operations.[142] But Rybolovlev identified drawbacks to his elevation. For one, "background i[n] auditing" made him "very, very, conservative."[143] Also, Bogdanov had no prior involvement in the Fund's company budgets nor any meaningful exposure to biotech.[144]

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[136] LPA Am. 22 ¶ Miscellaneous.

[137] Trial Tr. at 378:7–14 (Rybolovlev)

[138] *Id.* at 271:24–272:7 (Bogdanov).

[139] Trial Tr. at 273:20–274:1 (Bogdanov).

[140] *Id.*

[141] *Id.* at 272:14–20 (Bogdanov).

[142] Rybolovlev Dep. Tr. at 51:5–52:4.

[143] *Id.* at 50:17–51:3.

[144] Trial Tr. at 272:8–24, 316:24–13 (Bogdanov).

1. Bogdanov Proposes Drastically Reducing Rigmora's Investment In ATP.

Years before his elevation, Bogdanov was working as an investment analyst at Rigmora and recommended that Rigmora slash its investment in ATP.[145] By the fall of 2022, Rigmora's investment strategy and macroeconomic trends landed Rigmora in what Bogdanov described as a "liquidity crisis."[146] To address it, Bogdanov prepared an internal memorandum proposing a change in investment strategy.[147]

In the memorandum, Bogdanov observed that "two to three years ago" a crisis with similar characteristics had been "resolved by liquidating the private equity portfolio."[148] He warned that Rigmora's structure, with mainly "venture businesses (biotech [and] gaming) carries similar risks that had led to the current crisis: poorly predictable money inflows (divestments) and massive outflows (capital calls), which will grow exponentially if the divestments are delayed."[149]

Bogdanov's solution was straightforward: "The current cash gap can be closed by drastic reduction in venture investment (and particularly biotech) and divestiture."[150] Otherwise, Rigmora would remain trapped in "the same logic of

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[145] JX-446.

[146] *Id.*; *see also* Trial Tr. at 352:10–15 (Rybolovlev) (testifying that Rigmora did "not like to keep a lot of liquidity on hand" because "the money, whether it's cash, it has to work").

[147] JX-446; *see* Trial Tr. at 318:2–321:23 (Bogdanov).

[148] JX-446 at 1.

[149] *Id.*; Trial Tr. at 320:11–18 (Bogdanov).

[150] JX-463 at 2; Trial Tr. at 320:3–7 (Bogdanov).

shifting money from less risk (Private Equity Funds, real estate, boat) to more risky assets with 'fire extinguishing' from time to time" to resolve periodic emergency cash shortages.[151]

According to Bogdanov, Rigmora would "most importantly" re-encounter emergency cash shortages due to "guaranteed obligations on . . . biotech venture projects."[152] "Biotech ventures" referred to the Fund.[153] And although the Fund could be "a source of capital gains," it could not "serve as a reliable source of cash for funding [Rigmora's] regular needs."[154] If Rigmora were to exit its biotech investments, it would gain a "buffer" of at least $300 million—enough to mitigate Rigmora's liquidity crisis and achieve a "stable position" long term.[155] Bogdanov concluded that the way "to start moving towards the cash buffer" was "to drastically reduce ATP payments."[156]

[151] JX-463 at 2; Trial Tr. at 320:19–24 (Bogdanov).

[152] JX-440 at 2 (emphasis added). This email was sent by Bogdanov's associate, but Bogdanov testified that he is "the author." Bogdanov Dep. Tr. 162:5–10.

[153] Trial Tr. at 320:8–10 (Bogdanov).

[154] JX-440 at 2.

[155] JX-446 at 1.

[156] JX-462 at 2 (emphasis added); Bogdanov Dep. Tr. at 174:14–21.

Bogdanov believed that Rigmora could achieve "drastic" payment reductions through "tight controls," including "clear rules for review and approval of new projects."[157] His "priority number one [was] to create the cash buffer."[158]

2. Bogdanov Delays Budget Approvals To Reduce Funding Commitments.

No one gave Bogdanov any "specific instructions" on his new priorities when he became CIO and co-CEO in late 2024.[159] All indications are that Bogdanov set his fall 2022 plans in motion and began implementing a shift toward reducing long-term investments and building a cash buffer by cutting funds to ATP.

Meanwhile, ATP was on the verge of crisis. That is what prompted Harrison to make settlement overtures to Rybolovlev, overtures that led to Amendment 22 and Rigmora's commitment to discuss new budgets. And ATP wasted little time after executing Amendment 22 before sending Rigmora proposed budgets.[160]

Bogdanov had negotiated Amendment 22 for Rigmora and remained ATP's point of contact.[161] On December 24, 2024, Harrison emailed Bogdanov budget requests for:[162] Auolos, "align[ing] with management's recommendation for the middle scenario of $28M"; Replicate, for "$11M"; and Nine Square, "with a budget

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[157] JX-462 at 2; Bogdanov Dep. Tr. at 173:16–22.

[158] JX-462 at 2.

[159] Trial Tr. at 342:20–343:3 (Bogdanov).

[160] JX-1079 at 1; Trial Tr. at 79:10–80:5 (Harrison).

[161] Trial Tr. at 271:24–272:7, 275:2–5 (Bogdanov).

[162] JX-1079 at 1.

request of $15M" (the "Budgeting Requests").[163] Harrison also explained that he had attached materials concerning budgets for: Nereid, which could merge with Marlinspike and "utilize Marlinspike's remaining budget" and therefore required no additional funds; and Ascidian, which would "require more discussion and time to understand" due to "contingent variables" expected to "emerge" in the coming year.[164]

Harrison provided a spreadsheet showing "expected tranching by quarter for 2025," plus access to data rooms with "supporting materials for the new budgets."[165] ATP had not historically provided this level of information when requesting budget approval.[166] Harrison testified at trial that ATP provided this information "to make sure [Rigmora] understood that after the settlement agreement we were being radically transparent."[167] Bogdanov forwarded Harrison's email to Rigmora's analyst, Zufar Iskhakov, exclaiming "Let's start. Merry Christmas!"[168] This seems like a positive response. Yet Bogdanov testified in deposition that he did not mean "let's start approving budgets."[169] And events that followed seem to suggest that he meant "let's start" imposing "tight controls."

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[163] *Id.*

[164] *Id.*

[165] *Id.*

[166] Trial Tr. at 80:18–81:7 (Harrison).

[167] Trial Tr. at 128:6–9 (Harrison).

[168] JX-1079 at 1.

[169] Bogdanov Dep. Tr. at 228:13–15.

Bogdanov prioritized Replicate, which Harrison had warned would "run out of cash by the third week of January."[170] Over the holidays, Bogdanov's team prepared a "list of the follow-up diligence questions,"[171] which Bogdanov sent to Harrison.[172]

Bogdanov testified that this was appropriate. He characterized the list as "basic diligence questions on the company's past performance" and "how the company executed its original plan."[173] The questions determine the "most important indicators before [] mak[ing] any decision on the new budget."[174]

Harrison, on the other hand, viewed Bogdanov's diligence questions as bizarre.[175] As he testified, Rigmora "already knew about" Replicate and had "approved the budget[.]"[176] Replicate had pivoted "from oncology to a rabies vaccine over the course of the fund's investment."[177] As Harrison explained: "this is a company that we founded I think in 2021 and on which we'd reported extensively, were the sole owner, and we had many, many, many conversations about with [Rybolovlev]."[178]

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[170] Trial Tr. at 291:11–16 (Bogdanov).

[171] *Id.* 291:17–20 (Bogdanov).

[172] JX-1107 at 1–5.

[173] Trial Tr. at 292:1–8 (Bogdanov).

[174] *Id.* at 292:9–15 (Bogdanov).

[175] Trial Tr. at 129:3–5 (Harrison).

[176] *Id.*

[177] *Id.* at 128:19–23 (Harrison); JX-1107 at 3.

[178] Trial Tr. at 82:23–83:3 (Harrison).

Rigmora's diligence requests ignored this history. Some of the requests were open-ended, seeking, for example, narratives explaining whether Replicate had "lost its differentiation," and how its "technology evolved over the past four years compared to its main peers."[179] When confronted on cross-examination about whether he knew if his diligence questions could "be answered in a reasonable amount of time," Bogdanov admitted: "I didn't know."[180]

Rigmora ultimately approved Replicate's budget.[181] But the budgeting experience for Replicate marked a departure from the parties' historically collaborative approach over the Fund's twelve-year history and, in that way, foretold events to come.

3. To Move Forward, Harrison Proposes Reallocating Committed Funds To Clinical-Stage Companies.

Additional meetings occurred in March 2025 in Monaco to discuss the budgeting efforts contemplated by Amendment 22, including Aulos, Ascidian, and Marengo.[182] Bogdanov continued to issue requests for extensive information in connection with the budgeting process.[183] And ATP continued responding to those requests.[184] The senior management teams for those budgets under review flew

[179] *Id.* at 130:4–16 (Harrison); JX-1107 at 3.

[180] *Id.* at 328:17–329:1 (Bogdanov).

[181] *Id.* at 87:4–17 (Harrison); *id.* at 295:13–18 (Bogdanov).

[182] *Id.* at 92:15–18 (Harrison).

[183] *Id.* at 293:3–19 (Bogdanov).

[184] *Id.* at 94:5–24 (Harrison); JX-1222 at 1.

overseas, as did consultant Bill Grossman, whom ATP engaged for Bogdanov's and Rybolovlev's benefit.[185]

The Monaco meetings, however, did not result in approved budgets for Aulos, Ascidian, or Marengo.[186] Nor had Rigmora made any progress toward Royalty Financing.[187] With the understanding that the only capital the Fund would receive from Rigmora would be capital called within approved budgets, Harrison proposed as a compromise that the parties reallocate funding to "move some of the clinical projects along."[188] He proposed reallocating some of the approved budget amounts from the preclinical companies to clinical companies.[189]

Harrison put the reallocation proposal forward although he believed that the preclinical projects had value.[190] He engaged Rigmora to "attempt to minimize any need for near-term cash funding."[191] He sought to neutralize Rigmora's "incessant refrain that it faced cash flow issues and that it either could not, or would not, meet the funding needs of the Pool V-1 and V-2 portfolio companies."[192]

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[185] Trial Tr. at 95:1–18 (Harrison). Grossman assessed courses of action for Aulos. *Id.* at 95:19–96:6. Eventually, Rybolovlev deferred to Harrison's expertise before agreeing, in Harrison's words, "we should do Aulos." *Id.* at 95:24–97:15 (Harrison).

[186] *Id.* at 97:16–18 (Harrison).

[187] *Id.* at 98:1–12 (Harrison).

[188] *Id.* at 97:19–98:20 (Harrison).

[189] *Id.* at 98:21–99:2 (Harrison).

[190] *Id.* at 101:19–102:7 (Harrison).

[191] JX-1336 at 1.

[192] *Id.*

4. In Response To A Hostile Reaction From Rigmora, Harrison Withdraws The Reallocation Proposal.

Rigmora did not agree to Harrison's reallocation proposal.[193] At first, Rigmora seemed receptive to the approach. On May 9, Harrison held a Zoom call with Bogdanov, Rybolovlev, and Anna Batarina, an ATP partner.[194] At this meeting Harrison provided a brief introduction and then offered a more formal presentation.[195] In response, Bogdanov and Rybolovlev said that a presentation would be unnecessary because it is moving in the right direction, and the next step would be to speak with Rigmora's lawyers.[196]

Harrison spoke with Rigmora's lawyers on May 12, 2025.[197] Harrison characterized the call as an "ambush."[198] In his view, the lawyers distorted the purpose and meaning behind his reallocation proposal, saying to Harrison "it's obvious that you think the preclinical companies are worthless, otherwise why would you have proposed this reallocation."[199] Harrison withdrew the proposal during the May 12 call.[200]

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[193] Trial Tr. at 99:3–6 (Harrison).

[194] *Id.* at 47:20–23, 99:7–15 (Harrison).

[195] *Id.*

[196] *Id.*

[197] *Id.* at 99:8–100:8 (Harrison).

[198] *Id.* at 100:18–21 (Harrison).

[199] *Id.* at 101:2–12 (Harrison).

[200] *Id.* at 305:2–20 (Bogdanov).

G. Rigmora Disclaims Any Outstanding Capital Commitments To ATP.

Rigmora ratcheted up the parties' level of conflict further on May 15, 2025, when Bogdanov emailed ATP an alarming communication (the "May 15 Email").[201]

In the email, Bogdanov declared that the Fund should cease further funding of seven preclinical companies, which he referred to as the "Early-Stage Companies," and which all had approved yet unspent budgets.[202] He claimed those companies had "no way for a path to commercial success," had "failed to meet the milestones set out in the investment memoranda on which [Rigmora's] initial funding was premised," and there was "no third party interest."[203] In describing the companies as dead-ends, the May 15 Email contorted the purpose of Harrison's reallocation proposal, misstating that Harrison "hold[s] a similar view" that "further funding of those Early-Stage Companies will waste the ATP Fund's assets."[204]

Although Rigmora had already approved budgets for the preclinical companies, Bogdanov invited a "detailed explanation" of why, despite the companies' supposed unworthiness, Rigmora should "contribute further capital" to the preclinical companies.[205] Bogdanov stated Rigmora's intent to "comply" with the LPA but

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[201] JX-1319 at 1.

[202] *Id.*

[203] *Id.*

[204] *Id.*

[205] *Id.*

conditioned its cooperation on whether ATP could "demonstrate that the LPA allows" ATP to call further capital.[206]

And although the parties had just spent months discussing budgets for the four clinical-stage companies, and ATP had called capital for those companies on December 24, 2024, Bogdanov conditioned any further funding for those companies on ATP's agreement to "wind down or liquidate the Early-Stage Companies."[207]

Bogdanov gave ATP an ultimatum: liquidate the preclinical companies with already approved budgets to obtain funding for companies during clinical trials. Rigmora stated that it would not even "consider" the budgets for clinical-stage companies until ATP agreed to release Rigmora from its obligations to meet capital calls for already-approved budgets and abandon existing investments through liquidation or wind down.

The May 15 Email demanded "objective information" to "facilitate the discussion" of any "new budgets"— ignoring the past five months' of data and erecting new hoops for ATP to jump through.[208]

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[206] *Id.*

[207] *Id.* Bogdanov did not address the two preclinical companies Nereid and Nine Square that had already expended their initial Series A funding. *See id.*

[208] *Id.*

In the penultimate sentence, the May 15 Email stated that Rigmora did "*not presently have any outstanding capital commitments to ATP Fund* and therefore has full discretion on whether to agree to fund any new investment proposals."[209]

H. ATP Calls Six Months Of Capital.

The May 15 Email ultimatum left ATP with very few options. ATP decided to lean on its contractual rights. On May 30 and June 1, the GP called $87.76 million in capital needed to maintain six months of research activity for ten companies—the seven preclinical companies as well as Replicate, Marengo, and Ascidian—and $19,371,099 in ATLS Fees and partnership expenses (the "Capital Calls").[210] The capital called and unfunded approved budgets are below:

[209] *Id*. (emphasis added).

[210] *See* JX-1387 at 1; JX-1388 at 1; JX-1390 at 1; JX-1391 at 1; JX-1393 at 1; JX-1394 at 1; JX-1395 at 1; JX-1396 at 1; JX-1397 at 1; JX-1398 at 1; JX-1415 at 1; *see also* Trial Tr. at 110:8–21 (Harrison) (testifying that the figures were keyed to estimates for six months of budgets, with the goal of permitting company survival and "following forward on . . . research plans"); *id.* at 392:8–11 (Rybolovlev) (corroborating Harrison's view that six-months' worth of money permits a company's "normal functioning").

Company	Pool	Capital Called	Unfunded Approved Budget[211]
Aethon	ATP V-2	$5,000,000	$8,000,000
Apertor	ATP V-2	$7,100,000	$19,400,000
Ascidian	ATP V-3	$6,000,000	$6,000,000
Deep Apple	ATP V-2	$9,000,000	$9,000,000
Evercrisp	ATP V-2	$7,000,000	$49,000,000
Initial	ATP V-1	$7,000,000	$19,880,000
Marengo	ATP V-3	$29,960,000	$29,960,000
Marlinspike	ATP V-2	$6,300,000	$36,275,000
Red Queen	ATP V-2	$6,400,000	$23,600,000
Replicate	ATP V-2	$4,000,000	$13,000,000
	TOTAL:	$87,760,000	$214,170,000

Except for Replicate, for which the GP issued a revised capital call on June 1, 2025, the Capital Calls were due on June 13.[212] The revised Replicate capital call was due June 16, 2025.[213] ATP issued Default Notices on June 17, 2025.[214] With ATLS Fees and the June 1 revision, the Capital Calls totaled $101,103,759. Rigmora has never contributed capital in response to any of the Capital Calls.[215]

I. ATP Files This Litigation.

Concurrently with sending the May 30 capital calls, ATP filed this suit.[216] The Verified Complaint (the "Complaint") asserts five Counts.

- In Count I, ATP claims that Rigmora breached the LPA and Amendments 17, 18, and 20 to the LPA, by refusing to engage in

[211] JX-1622.

[212] *See* JX-1387 at 1; JX-1388 at 1; JX-1390 at 1; JX-1391 at 1; JX-1393 at 1; JX-1394 at 1; JX-1395 at 1; JX-1396 at 1; JX-1397 at 1; JX-1398 at 1; JX-1415 at 1.

[213] JX-1415 at 1.

[214] *See, e.g.*, JX-1620.

[215] PTO ¶ 78.

[216] Dkt. 1, Verified Complaint ("Compl.") ¶¶ 23, 183–196.

substantive discussions of new budgets, imposing improper conditions to the occurrence of budget discussions, and repudiating any obligation to consider new budgets.

- In Count II, ATP claims that Rigmora breached or repudiated its obligations under the LPA to fund capital calls made consistent with the budgets it approved.
- In Count III, ATP claims that Rigmora breached its implied obligations under Cayman law to act rationally and in good faith in exercising discretionary rights (absent clear language to the contrary) by refusing to consider requests for new budgets for the Fund's clinical-stage portfolio companies.
- In Count IV, ATP seeks a declaration that the Global Default Provisions of the LPA warrant a Global Default penalty on Rigmora—not on a project-by-project or pool-by-pool basis, but across all of the Limited Partner's interests in the Fund.
- In Count V, ATP seeks a declaration that the Fund is entitled to exculpation, under Paragraph 2(g) of the LPA, for filing this action.

ATP moved to expedite proceedings due to the impending shutdown of several of the affected portfolio companies for lack of funding.[217] The court granted the motion to expedite over Rigmora's opposition and scheduled trial for September.[218]

J. Rigmora Files Competing Litigation In The Cayman Islands.

On June 2, Rigmora filed a Writ of Summons against ATP in the Grand Court of the Cayman Islands.[219] Rigmora resurrected its argument debuted in the prior Cayman litigation—that Rigmora committed $2.425 billion in Contingent Subscription, Rigmora has already made capital commitments in excess of that amount, and thus Rigmora is not required to fund any further capital calls under the

[217] Dkt. 1, Pl.'s Mot. to Expedite Proceedings ¶ 1.

[218] Dkt. 31; Dkt. 39 at 43:8–22.

[219] PTO ¶ 11.

LPA.[220] Four days later, Rigmora filed a Winding Up Petition against ATP in the same court (together with the Writ of Summons, the "Cayman Litigation").[221] Rigmora argued that it had lost trust and confidence in ATP due to ATP's "mismanagement and lack of probity[.]"[222] And Rigmora sought to accomplish through the Cayman court what Bogdanov had unilaterally demanded in the May 15 Email—a liquidation.

K. Forum Jockeying Ensues.

Through motion practice in the competing lawsuits, the parties fought bitterly over the dominance of their preferred forums. On June 9, 2025, Rigmora moved to dismiss ATP's claims and a motion to stay this proceeding pending the resolution of the Cayman Litigation. Three days later, Rigmora filed an ex parte summons in the Cayman Litigation seeking an injunction barring ATP from declaring Rigmora in default of the LPA or issuing any further capital calls.[223] ATP responded by moving to stay the Cayman Litigation.[224]

This court denied Rigmora's motion to dismiss or stay these proceedings, concluding that its motion relied on convenience defenses that it waived in the LPA, and that ATP's allegations supported a finding of irreparable harm to multiple

[220] JX-1416 ¶¶ 4–5.

[221] PTO ¶ 11.

[222] JX-1417 ¶ 4.

[223] JX-1434.

[224] JX-1446.

Delaware entities absent expedition.[225] The Cayman court entered Rigmora's requested injunction and scheduled trial for January 2026 (the "Writ Injunction").[226] And ATP withdrew its motion to stay the Cayman Litigation.[227]

The parties began a sprint to trial in both fora.[228] The parties engaged in further motion practice in these proceedings, filing a combined five motions to compel in one month.[229] This court continued the September trial to October based on Rigmora's claim that ATP's late-produced documents prejudiced its ability to prepare for trial.[230] When seeking a continuance, Rigmora stated that its trial team "may not be able to review [the documents] in time to integrate them into their preparations for the trial[,]" and that "[t]here's no question that there's been actual prejudice" to Rigmora.[231]

Rigmora used its newfound time secured by the continuance to return to the forum fight. Rigmora filed an emergency motion in the Cayman court based on the late-produced documents, seeking the appointment of provisional liquidators to take

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[225] Dkt. 56 at 51:10–52:18. The LPA contains provisions (i) selecting both Delaware and the Cayman Islands as the exclusive forums for related suits, and (ii) waiving all venue and forum non conveniens defenses as to suits filed in Delaware or the Cayman Islands.

[226] JX-1439 ¶¶ 1–2; JX-1446.

[227] JX-1533 ¶ 5.

[228] *Id.* ¶¶ 6, 16.

[229] *See* Dkts. 92, 113, 141, 143, 186.

[230] Dkt. 225.

[231] Dkt. 215 ¶ 7; Dkt. 238 at 13:3–4.

control of the Fund.[232] The Cayman court scheduled a hearing on the emergency motion for October 31.[233]

ATP responded to Rigmora's new advances in the Cayman Litigation by petitioning this court for an emergency status quo order that would prevent Rigmora from pursuing relief in the Cayman court pending resolution of this action.[234] After an initial hearing on the motion for a status quo order,[235] Rigmora agreed not to pursue a hearing on the emergency application in the Cayman court before October 31 and would provide notice to this court of any change in position.[236] The parties ultimately reached a resolution on the status quo order that involved Rigmora withdrawing its emergency application in the Cayman Litigation. [237]

The court held a two-day trial from October 16, 2025 through October 17, 2025.[238] The parties completed post-trial briefing on November 12, 2025, presented post-trial arguments on November 21, 2025, and submitted the Schedule of Evidence on December 3, 2025.[239]

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[232] Dkt. 232 (Pl.'s Mot. for Status Quo Order Br.) at 5–6.

[233] *Id.* at 3.

[234] *Id.*

[235] Dkt. 261.

[236] Dkt. 267 at 7:13–8:13.

[237] Dkt. 267 at 7:13–8:13.

[238] Dkt. 259.

[239] Dkt. 265 (ATP Post-Trial Opening Br.); Dkt. 262 (Rigmora Post-Trial Br.); Dkt. 272 ("ATP Post-Trial Reply Br."); Dkt. 282 (Schedule of Evidence).

L. The Current Status Of The Portfolio Companies

The Capital Calls and Budgeting Requests affect 13 portfolio companies—nine preclinical and four in clinical trials.[240]

The eight preclinical companies—Aethon, Apertor, Deep Apple, Evercrisp, Initial, Marlinspike, Nine Square, and Red Queen—have shown merit in addressing a major unmet therapeutic need. In some instances, initial research and data provided pivot points for the preclinical companies to refocus their efforts on unexpected, more fruitful avenues. ATP personnel, including Harrison and Venture Partner Spiros Liras, Ph.D., testified to these facts, which were further expounded upon by ATP's expert, Robbins Dr. Mark Robbins, Ph.D, J.D.,[241] whose analysis of the preclinical companies, individually and in aggregate, indicated "significant

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[240] *See* JX-1390 (Aethon May 30 Capital Call); JX-1391 (Apertor May 30 Capital Call); JX-1393 (Deep Apple May 30 Capital Call); JX-1394 (Evercrisp May 30 Capital Call); JX-1395 (Initial May 30 Capital Call); JX-1397 (Marlinspike May 30 Capital Call); JX-1398 (Red Queen May 30 Capital Call); JX-1387 (Ascidian May 30 Capital Call); JX-1396 (Marengo May 30 Capital Call); JX-1415 (Replicate June Capital Call). To recap, ATP initially sent a capital call for Replicate on May 30, 2025 for $13 million (JX-1399), but it later issued a revised and superseding capital call for $4 million on June 1. JX-1415. ATP sent the Budgeting Requests for Replicate, Ascidian, Aulos, and Nine Square to Rigmora in a December 24, 2024 email. JX-1079. ATP never sent Rigmora a formal Budgeting Request to increase Marengo's budget. Marengo's management first sought additional money from the Fund in its presentation to Rybolovlev and Bogdanov in Monaco on March 12, 2025. JX-1222, at 147. They requested the Fund commit an additional $75 million to Marengo above what it had already budgeted for the company. *Id*. But Rigmora did not approve the request coming out of the Monaco meetings. Trial Tr. at 97:16-18 (Harrison). Later, on May 19, four days after Bogdanov refused to provide further funding or consider additional budgets unless certain "Early Stage Companies" were wound down, ATP asked Rigmora to discuss (in good faith) and approve a new budget for Marengo. JX-1349. ATP then estimated Marengo's additional funding needs to be $63 million. *Id*.

[241] *See, e.g.,* Trial Tr. at 74:13–20 (Harrison); *id.* at 246:23–247:16 (Liras).

scientific and clinical potential."[242] ATP offered Robbins as an expert on pharmaceutical and biotechnology industry custom and practice to evaluate the scientific and clinical potential of the treatments being developed by the Portfolio Companies.

The four companies in clinical trials—Aulos, Ascidian, Marengo, and Replicate—are similarly promising.[243] ATP has placed each under the direction of a talented group of founders and leaders, including past biotech CEOs who have sold their companies to pharma giants like Bristol Myers Squibb and Amgen for billions of dollars,[244] holders of several patents,[245] and seasoned pharma executives and scientific leaders.[246] The clinical stage companies are all currently engaged in active clinical trials[247] and have generated interest from potential third-party collaborators.[248]

The negative impacts of a funding default for early-stage life sciences companies are severe. These impacts include "[t]alent loss," "[d]elayed, abandoned,

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[242] JX-1573 (Robbins Opening) ¶¶ 23(iv), 38; Trial Tr. at 183:13–23 (Robbins).

[243] Robbins Report ¶¶ 15, 124–159,

[244] *Id.* ¶ 125.

[245] *Id.* ¶¶ 133–134.

[246] *Id.* ¶ 155.

[247] *Id.* ¶¶ 126–128; 137–142; 149–150; 157.

[248] *Id.* ¶ 131 (Aulos' developing partnerships with Pfizer, Regeneron), ¶ 143 (Replicate's partnership with leading Brazilian pharma company, and negotiations with Novo Nordisk), ¶ 152 (Marengo in partnerships with Ipsen and Gilead), ¶ 158 (Ascidian partnership with Roche, and discussions with Lilly, Regeneron, and Bayer).

disrupted R&D," [d]ifficulty in restarting halted or delayed [] trials," "[d]ifficulty attracting future investments or partners, and [n]egative market perception in general."[249] The sudden discontinuation of funding can lead creditors to trigger bankruptcy proceedings and force a sale of the companies for "a fraction of their actual value."[250]

ATP has kept the affected portfolio companies alive during this litigation by scaling down operations with the goal of preserving "critical projects" and "key employees," and trying to operate with a skeleton crew without destroying the company.[251] This has involved "mov[ing] companies [] out of facilities, heavy negotiations with landlords, sales of capital equipment, consolidations, reduction of research programs," and terminating approximately 70% of employees across all companies.[252] One company has been forced to cede platform technology back to the source institution.[253] Despite entering survival mode at great expense to the companies, ATP does not "believe [the creditors] will hold off for much longer" and that the Fund is "likely to lose the assets."[254]

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[249] JX-1572 ("Rao Report") ¶ 67; *see also* Trial Tr. at 60:19–61:10 (Harrison); *id.* at 165:5–21 (Yanchik).

[250] Robbins Report ¶ 162; *see also* Trial Tr. at 165:17–21 (Yanchik).

[251] Trial Tr. at 113:14–114:12 (Harrison); *id.* at 163:21–23 (Yanchik); *id.* at 266:3–7 (Liras).

[252] *Id.* at 113:14–20 (Harrison); *id.* at 162:23–163:6 (Yanchik).

[253] *Id.* at 113:21–114:1 (Harrison).

[254] *Id.* at 163:3–6, 165:17–21 (Yanchik).

Operationally, the companies are in a form of "stasis" and could be revived upon receipt of funding.[255] But the window for revival is closing, because "whenever you stop a research organization, it starts to deteriorate."[256]

II. LEGAL ANALYSIS

In the Pretrial Order and in post-trial briefing, the parties narrowed their disputes to four issues. First, is ATP entitled to specific performance of the Capital Calls under the LPA? Second, did Rigmora breach a duty, implied by common law, to exercise its discretion to approve budgets in good faith?[257] Third, is ATP entitled to a declaration that it did not violate the LPA by bringing this action or that Rigmora is a Defaulting Partner as defined in the LPA? Fourth, is ATP entitled to attorney's fees and expenses incurred in connection with this lawsuit? ATP bears the burden of proof on each of its claims.[258]

A. Capital Calls

The parties' dispute over the Capital Calls centers on two parts of Paragraph 5(a) of the LPA: Paragraph 5(a)(i), which allows the GP to call capital in amounts up to but not "in excess of" the Limited Partners "Contingent

[255] *Id.* at 163:17–165:4 (Yanchik); *see also id.* at 114:2–12 (Harrison).

[256] *Id.* at 164:18–167:2 (Yanchik).

[257] In the Pre-Trial Order, ATP sought a declaration that Rigmora waived or otherwise forfeited its voting and budget approval rights, but dropped this request after trial. *See generally* Dkt. 265 ("ATP Post-Trial Opening Br.").

[258] *See AB Stable VIII LLC v. Maps Hotels & Resorts One LLC*, 2020 WL 7024929, at *49 (Del. Ch. Nov. 30, 2020), *aff'd,* 268 A.3d 198 (Del. 2021).

Subscriptions";[259] and Paragraph 5(a)(ii), which requires that any capital call be for a purpose stated in the LPA.[260] The parties' competing positions raise two sets of issues: Under Paragraph 5(a)(i), were the Capital Calls in excess of Rigmora's unfunded Contingent Subscriptions? Under Paragraph 5(a)(ii), were the Capital Calls for contractually specified purposes? If the first set of issues go ATP's way, the court must also determine whether ATP is entitled to specific performance of the Capital Calls. To obtain specific performance, ATP bears the burden of showing the existence of terms that it seeks to enforce by clear and convincing evidence.[261]

This contract analysis is governed by Cayman law, consistent with the LPA.[262] The parties dispute the LPA's meaning. Under Cayman law, a court interprets a written contract according to "the intention of the parties by reference to what a reasonable person having all the background knowledge which would have been available to the parties would have understood them to be using the language in the

[259] LPA ¶ 5(a)(i).

[260] LPA ¶ 5(a)(ii).

[261] Which party bears the burden of proof is a procedural question governed by Delaware law, but the nature of the burden is arguably a substantive issue governed by Cayman law. *See In re IBP, Inc. S'holder Litig.*, 789 A.2d 14, 53 (Del. Ch. 2001). Yet Rigmora cited Delaware law on the nature of the burden. *See* Rigmora Post-Trial Br. at 29 (citing *Vill. Prac. Mgmt. Co. v. West*, 342 A.3d 295, 321 (Del. 2025)). And ATP did not brief it, so this decision applies Delaware law.

[262] LPA ¶ 18(g)(i) (stating that the "terms and provisions" of the LPA "shall be construed under the laws of the Cayman Islands"); PTO ¶ 25. The elements to prove a breach are: (1) a valid contract, (2) a breach of that contract, and (3) damages arising from the breach. JX-1588 ("Phillips Report") ¶ 56 (citing *Chitty on Contracts* at [4-001] (35th ed. 2024); *accord Kuroda v. SPJS Hldgs.*, 971 A.2d 872, 883 (Del. Ch. 2009) (reciting the same elements for a claim of breach of contract under Delaware law)).

context to mean."[263] The goal is to "ascertain the objective meaning of the language which the parties have chosen to express their agreement."[264] The court employs "an iterative process by which each suggested interpretation is checked against the provisions of the contract and its commercial consequences are investigated."[265] But "[c]ommercial common sense is only relevant to the extent of how matters would or could have been perceived by the parties, or by reasonable people in the position of the parties, as at the date that the contract was made."[266]

1. Paragraph 5(a)(i) – Funding Commitments

Rigmora argues that Rigmora has committed $2.45 billion on an aggregate basis as the Contingent Subscription and contributed $2.69 billion, and that the Capital Calls are thus necessarily "in excess of" the Contingent Subscription.[267] ATP argues that Rigmora made over $545.5 million in unfunded commitments to the pools and over $2.85 billion in total commitments across all pools, leaving head room for the Capital Calls. ATP also argues that Rigmora's $2.69 billion calculation double-counted pools of funds that were transferred or reallocated, such that Rigmora's

[263] Bloch Report ¶ 23 (quoting *Arnold v. Britton*, [2015] UKSC 36 at [15]).

[264] Bloch Report ¶ 23 (quoting *Wood v. Capita* [2017] UKSC 24 at [10]); Phillips Report ¶ 61 (same).

[265] Bloch Report ¶ 25 (citing *Wood*, [2017] UKSC 24 at [12]).

[266] Bloch Report ¶ 24 (citing *Arnold*, [2015] UKSC at [19]; *see also* Phillips Report ¶ 60 (also citing *Arnold*, [2015] UKSC at [15], [17]–[21]).

[267] *See* Rigmora Post-Trial Br. at 32, 38–40.

actual contribution is $2.3 billion. In all events, therefore, there is head room to meet the Capital Calls.[268]

The parties' dispute on the meaning and application of Paragraph 5(a)(i) thus raises three sub-issues: What is the Contingent Subscription amount, $2.425 billion as Rigmora contends or over $2.85 billion as ATP argues? What has Rigmora contributed to date, $2.65 billion as Rigmora contends or $2.3 billion as ATP argues? And do the Capital Calls of $101,103,759 fall within any delta between the Contingent Subscription and Rigmora's contributions?

a. Rigmora's Contingent Subscription is $2.425 billion.

The parties dispute both how to calculate the Contingent Subscription (in the aggregate by Limited Partner or pool-by-pool) and Rigmora's total commitments. The threshold issue concerning how to calculate the Contingent Subscription is largely beside the point because ATP has not proven that Rigmora committed over $2.85 billion.[269] ATP reaches the $2.85 billion by adding and deducting the amounts reflected in Amendment 20 to the $2.425 in subscription agreements.

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[268] ATP Post-Trial Opening Br. at 8–9, 54–58; ATP Post-Trial Reply Br. at 13–14.

[269] It bears noting that Amendment 13 to the LPA seems to mandate a pool-by-pool approach. Under the heading "Separate Pools," it provided that "all of the Partnership's assets and liabilities shall be divided into two separate pools" and "separate and distinct records shall be maintained for each Pool, and capital contributions, distributions, income, gains, losses and expenses *shall also be accounted on a Pool-by-Pool basis*." JX-15 ("LPA Am. 13") ¶ 17(a) (emphasis added). ATP satisfied its obligation to track the Contingent Subscription amount on a Pool-by-Pool basis by circulating a detailed "tracker" of funded and unfunded commitments each time it issued a capital call. *See, e.g.*, JX-230; *see also* Trial Tr. at 48:19–49:21 (Harrison).

Broken down by Pool, beginning with Pool IV, recall that the parties initially contributed $1.5 billion to Pool IV and Rigmora contributed $1.425 billion of that amount.[270] In Amendment 20, the parties agreed to reduce the Pool IV commitment to the amount already contributed, plus expenses.[271] By Amendment 20, Rigmora had contributed $1,299,840.047.14 to Pool IV.[272] The parties originally anticipated $20 million in expenses but ultimately incurred around $33,351,890.42.[273] Adding

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[270] *See* PTO ¶¶ 26–27; JX-212 at 19 (Blue Horizon $698,250,000 subscription); JX-213 at 19 (Ezbon $726,750,000); JX-216 at 18 (Harrison $75 million subscription); JX-1, Sch. D.

[271] LPA Am. 20 ¶ 24.

[272] *See* JX-221, Tab "Capital Contributions – ATP IV," Cells D163, E163 (stating Ezbon and Blue Horizon contributed $662,918,351.14 and $636,921,696.00 to ATP IV respectively, which combined equals $1,299,840.047.14).

[273] It was $33,351,890.42 and Rigmora's 99.6028% of that amount was $33,219,416.71. *See* JX-224 at 3 (capital call for $320,590 of expenses for Pool IV); JX-382, at 3 (capital call of 4,749,982.91 in expenses for Pool IV); JX-318, at 3 (capital call for $1,960,789.97 in expenses for Pool IV); JX-487 at 3 (capital call for $8,435,798.52 in expenses for Pool IV); JX-568 at 3 (capital call for $4,000,000 in expenses for Pool IV); JX-585 at 3 (capital call for $280,790.62 in expenses for Pool IV); JX-609 at 3 (capital call for $5,000,000 in expenses for Pool IV); JX-652 at 3 (capital call for $5,200,000 in expenses for Pool IV); JX-718 at 3 (capital call for $1,500,000 in expenses for Pool IV); JX-740 at 3 (capital call for $ 368,717.64 in expenses for Pool IV); JX-823 at 3 (capital call for $874,363.01 in expenses for Pool IV); JX-878 at 3 (capital call for $299,903.33 in expenses for Pool IV); JX-1185 at 3 (capital call for $24,533.02 in expenses for Pool IV). The limited partners also received two capital calls in December 2024 seeking funds relating to the ATLS Fee for the first half of 2025, partnership expenses for the second half of 2024, and the 2024 ATVM management fee. JX-1075 at 3; JX-1086 at 5. The calls sought $375,354.80 from Pool IV and about $15 million across all pools. *See id.* Rigmora initially refused to fund those calls. JX-1085. ATP later discovered that it overcharged the ATLS Fee due to an accounting error and it returned $599,225.46. JX-1172. It is unclear how that refund was allocated across the various pools, but later records indicate that the December calls were reconciled to $336,502.41 for Pool IV. *See* JX-1237, Tab "Pool V-4 Total," Cell E152.

Rigmora's share of the fee to the amount contributed by Rigmora equals $1,333,059,463.85.

Pools V-1 and V-2 are straightforward. Rigmora contributed $1,000,000,000 to Pools V-1 and V-2 in September 2020 in connection with Amendment 17.[274]

Pool V-3 requires some math. According to ATP, Rigmora contribute $310 million to Pool V-3 through Amendment 20. ATP relies on new Paragraph 22(b) of Amendment 20, which provides that:

> ATP V-3 shall have capital commitments of $500,000,000, including without limitation (i) the $189,500,000 of capital deemed to have been contributed as provided below, (ii) the $70,853,399 of capital comprising the Prior Budgeted ATP V-3 Follow-on Investments and (iii) approximately $235,000,000 in investments anticipated to be made in new Portfolio Companies . . . .[275]

This language does not expressly reflect an additional $310 million capital commitment. To reach $310 million, ATP subtracts the "deemed" contributions of $189,544,660 from the total commitment of $500 million.[276] ATP ignores the $70,853,399 in previously approved unfunded budgets for Pool V-3 companies and $235 million, which add up to $305.9 million, not $310 million.

Last is Pool Braeburn. According to ATP, Rigmora contributed $189.9 million to Pool Braeburn through Amendment 20 and agreed to contribute capital sufficient

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[274] Trial Tr. at 29:1–19, 41:11–42:14 (Harrison); LPA Am. 17; JX-99; JX-101.

[275] LPA Am. 20 ¶ 22(b).

[276] *Id.* Here is the math: $500,000,000 – $189,544,660 = $310,455,340. Rigmora is responsible for 99.6028% of the capital contributions for Pool V-3. *See id.* So, Rigmora is responsible for $309,222,211.39 of the Pool V-3 commitments, which rounds up to $310 million.

to cover additional expenses, which Pool Braeburn ultimately incurred. ATP relies on new Paragraph 22(b) of Amendment 20, which provides that Pool Braeburn includes "$189,900,000 in unfunded previously approved budgets," as well as "additional securities of Braeburn acquired by the Partnership after the date of Amendment 20," and management fees and expenses discussed in the Amendment.[277] ATP adjusts the $189.9 million based on later events—ATP acquired $30.6 million in additional securities and was allocated $9 million in expenses, bringing the total commitment to $229.5 million.[278] Through Amendment 22, ATP distributed to Rigmora the royalty held in Pool Braeburn and thus Rigmora "no longer had an obligation to fund the remaining amounts on the royalty purchase agreement," which was $21.3 million.[279] ATP therefore "reduced the obligation to Pool Braeburn by that amount, which netted out to a total obligation $208,355,000."[280]

In summary, in a snapshot, here is how ATP builds to the "over $2.85 billion" figure:

Pool	**Rigmora's Commitment**
Pool IV	1,333,059,463.85
Pools V-1/V-2	1,000,000,000
Pool V-3	309,222,211.39
Pool Braeburn	208,335,616.81
Total	2,850,617,292.05

[277] LPA Am. 20 ¶ 21(a).

[278] Engels Dep. Tr. at 94:3–10; JX-1565, Cell G8.

[279] Engels Dep. Tr. at 355:22–356:3, 355:16–355:21.

[280] Engels Dep. Tr. at 356:2–4; ATP Post-Trial Reply Br. at 11, although by the court's math, it nets out to $208,200.

Rigmora takes issue with ATP's interpretation of Amendment 20 as a capital commitment. Rigmora advances three main arguments to that effect: Rigmora first appeals to the commercial context. Rigmora next argues that interpreting Amendment 20 as a subscription agreement is inconsistent with ATP's contemporaneous representations.[281] Rigmora last contends that Amendment 20 does not read like a subscription agreement and is not sufficiently clear and convincing in its terms to be treated like one.[282]

Rigmora's first argument based on the commercial context of Amendment 20 is misguided. Rigmora argues that Amendment 20 "was entered into less than a year after the $1 billion increase in the LPs' Contingent Subscriptions, when the Fund had over $1 billion in uncalled Contingent Subscriptions remaining."[283] According to Rigmora, "there was no need to increase the capital commitment when Amendment 20 was executed, no reason to think the parties did so, and no reason to think they would have done so without following the same formalities used to increase the Contingent Subscriptions a few months earlier."[284]

Rigmora's commercial-context argument, however, ignores the plain text of Amendment 20. As discussed above, on its face, Amendment 20 reflects a minimum in unfunded commitments of approximately $2.814 billion, far more than the $2.425

[281] *Id.* at 35–36.

[282] *Id.* at 36–37.

[283] *Id.* at 37; *see* JX-1237 at 4 (schedule of capital activity).

[284] Rigmora Post-Trial Opening Br. at 37.

billion Rigmora conceded. This argument also ignores that biotech investment was booming in 2021 when the parties entered Amendment 20,[285] Rigmora had not yet entered what Bogdanov would later call a liquidity crisis,[286] Rybolovlev approved all of the budgets at issue in Amendment 20, and Rigmora was ATP's only source of capital.[287] If not Rigmora, who was expected to fund the approved budgets reflected in Amendment 20? This commercial context is *ATP's* strongest point.

Rigmora's second argument based on ATP's contemporaneous communications is neutral. Rigmora is correct that interpreting Amendment 20 as a subscription agreement runs contrary to many of ATP's contemporaneous representations.[288] Before the events that led to this litigation, ATP informed its banks, insurance companies, and portfolio-company landlords that its total committed capital was $2.5 billion, which is equal to Rigmora's $2.425 billion under their subscription agreements and Harrison and his family trust's $75 million.[289] And ATP's website for the Fund still lists its capital commitments as "$2.65 billion" as it has since 2020.[290] But other contemporaneous documents, like ATP's first post-Amendment 20

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[285] *See id.* at 7 ("[T]he biotech market peaked in 2020 and 2021, during the COVID pandemic[.]" (citing Trial Tr. at 402:20–22 (Ehlers))).

[286] *See* JX-446 at 1; Trial Tr. at 51:15–52:19 (Harrison).

[287] LPA Am. 20 ¶ 21.

[288] *See generally* Ehlers Dep. Tr. at 35:10–21.

[289] Trial Tr. at 460:12–461:3, 462:10–24, 463:13–464:16 (Engels); JX-834 (communicating to J.P. Morgan that "ATP has approximately $2.5 billion in committed capital").

[290] JX-128 (2020); JX-2128 (Sept. 8, 2025); *see also* About, Apple Tree Partners, https://www.appletreepartners.com/about (accessed Dec. 4, 2025).

capital call to the limited partners[291] and ATP's own accounting of capital contributions that it sent to Rigmora in March 2025,[292] suggests Rigmora did increase its Contingent Subscription through Amendment 20. These competing contemporaneous communications work neither for nor against either side. They suggest that ATP did not spend a lot of time worrying about the precise amount of Rigmora's total capital commitments in 2022. This is consistent with Harrison's testimony that the parties' enjoyed a collaborative relationship during that period.[293]

Rigmora's last argument based on the language of Amendment 20 is compelling. The parties did not execute any new or amended subscription

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[291] The first capital call issued shortly after the adoption of Amendment 20 shows unfunded capital commitments stood at $1,461,868,810 total across all limited partners and $1,460,556,241.39 for Rigmora alone. JX-224, at 3. This evidence supports ATP's position that Rigmora committed more capital through Amendment 20 as unfunded capital commitments immediately preceding Amendment 20 were $1.067 billion. *See supra* § I. D.

[292] *See* JX-1237; JX-1237, PX-513, Tab "Amendment Summary," Cells G8, N8, U8, AC8 (reflecting cumulative commitments across Pools V-1, V-2, Braeburn, V-3, and IV of 3,203,669,000.00). This accounting did not deduct deemed commitments from neither its contribution tabulations nor its tabulations on commitments, so they had no net effect on the limited partner's unfunded commitments. *See* JX-1237, PX-513, Tab "Pool V-3 Total," Cell B9 (including the $189,544,660 deemed contribution in Pool V-3's contributions); *id.*, Tab "Pool Braeburn Total," Cell B9 (including the $203,669,000 deemed contribution in Pool Braeburn's contribution's calculation); *id.*, Tab "Amendment Summary," Cells G8, N10, U8, AC9, AC11 (listing total capital commitments of $1,000,000,000 billion (Pools V-1 and V-2), $393,569,000 million (Pool Braeburn), $500,000,000 (Pool V-3), and $1,383,360,505.56 (Pool IV) for total commitments of $3,276,929,505.56 across all pools). The total commitments listed for Pools V-3 and Braeburn include the deemed commitments within Amendment 20, meaning their accounting in the capital contributions has no net effect on the amount of Rigmora's unfunded commitments. *See id.*, Tab "Amendment Summary," Cells N9, U11. Total commitments exceeding $3.2 billion indicates Amendment 20 increased Rigmora's Contingent Subscription.

[293] Trial Tr. at 51:21:52:4 (Harrison).

agreements with Amendment 20. And Amendment 20 does not expressly refer to the Contingent Subscriptions.[294] The absence of express language referencing Contingent Subscription stands in contrast to Amendments 17 and 18, which both explicitly refer to "Contingent Subscription."[295] This combination of factors is enough to suggest that the finer details of Rigmora's funding commitments were yet to be ironed out when the parties entered into Amendment 20.

Moreover, Amendment 20 does not make clear the amount of capital that Rigmora was to contribute. Amendment 20 does not expressly state that Rigmora commits to contributing its share of the $310 million to Pool V-3. Rather, ATP implies that number by deducting the "deemed contributions" from the contemplated $500 million.[296] Amendment 20 also does not state that Rigmora will contribute $208 million to Pool Braeburn. Rather, Amendment 20 states that Rigmora commits $189.9 million plus unspecified future expenses.[297]

In the end, ATP's interpretation of Amendment 20 leaves too much to interpretation. ATP must demonstrate the contractual terms that it seeks to specifically enforce by clear and convincing evidence.[298] ATP has not proven an overall Contingent Subscription amount of over $2.85 billion. Thus, regardless of

[294] LPA Am. 20.

[295] LPA Am. 17; LPA Am. 18.

[296] *See* ATP Post-Trial Opening Br. at 10, 13–14.

[297] LPA Am. 20 ¶ 21.

[298] *West*, 342 A.3d at 321.

whether calculated in the aggregate or on a pool-by-pool basis, ATP has proven that Rigmora committed no more than $2.425 billion.

b. Rigmora has contributed no more than $2.3 billion.

Ultimately, ATP need not rely on Amendment 20 to secure the relief it seeks. Rigmora claims to have contributed over $2.69 billion to date, well in excess of the $2.425 billion in undisputed commitments. But 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.[299]

Double counting "deemed contributions" of Amendment 20 is inconsistent with the purpose of Amendment 20 as recounted by Rigmora. According Rigmora, the purpose of Amendment 20 was to "reallocat[e] . . . an *existing* commitment from a different pool[.]"[300] Amendment 20 was "not a new commitment."[301] Put differently, the deemed contributions were not new contributions. Moreover, counting the deemed contributions twice against Rigmora's $2.425 billion Contingent Subscription would result in Rigmora committing less than $2.425 billion to the Fund.[302] There is no evidence, either in Amendment 20 or elsewhere, that the parties intended to

[299] LPA Am. 20 ¶¶ 21(b) (stating initial deemed contributions for Pool Braeburn were $203,669,000 for Pool Braeburn and $189,544,660 for Pool V-3, which is $393,213,660; *see also* Rigmora Post-Trial Answering Br. at 38 n. 277, Ex. 1 (Strebulaev) at 2.

[300] Rigmora Post-Trial Br. at 36 (emphasis added).

[301] *Id.*; *see also id.* at 6 ("Amendment 20 created two new pools . . ." and "allocated *existing assets* and liabilities to them . . . ." (emphasis added)).

[302] LPA Am. 20 ¶¶ 21(b), 22(b) (stating initial deemed contributions $203,669,000 for Pool Braeburn and $189,544,660 for Pool V-3, which is $393,213,660 in deemed contributions total).

reduce the total amounts committed to the Fund through Amendment 20. As discussed above, the commercial context indicates the contrary.

Rigmora relies on a series of ATP communications documents to support its double counting theory.[303] Each of those documents were prepared for other purposes. Two of those documents show that ATP tabulated the limited partners' total capital commitments as more than $3.2 billion.[304] These are not figures that Rigmora stands behind.

Reducing Rigmora's $2.69 billion figure to eliminate double counting, Rigmora has contributed $2.3 billion to the Fund.

c. The Capital Calls do not exceed the difference between the Contingent Subscription and Rigmora's contributions.

ATP has proven that Rigmora committed $2.425 billion and contributed $2.3 billion. The difference is $125 million. Given Rigmora's overall contributions, there is sufficient room to fund the Capital Calls of totaling approximately $101.7 million.

2. Paragraph 5(a)(ii) – Funding Purposes

ATP issued the Capital Calls for ten portfolio companies: Aethon, Apertor, Deep Apple, Evercrisp, Initial, Marlinspike, Red Queen, and Replicate of Pools V-1

[303] *See* Rigmora Post-Trial Br. at 39–40.

[304] JX-1237, PX-513, Tab "Amendment Summary," Tab "Amendment Summary," Cells G8, N10, U8, AC9, AC11 (reflecting cumulative commitments across Pools V-1, V-2, Braeburn, V-3, and IV of $3,276,929,505.56), JX-2000, Tab "Amendment Summary," Cells G8, N8, U8, AC8 (same).

and V-2, and Marengo and Ascidian of Pool V-3.[305] ATP issued these calls to provide six months of approved budget to carry forward research plans, partnership fees, and ATLS Fees.[306]

The LPA identifies partnership fees, ATLS Fees, and budgets expenses as appropriate purposes. Subsections 5(a)(ii)(A) through (C) state that "[u]nless otherwise approved by the holders of a majority of the Preferred Units in writing," the GP:

> may only call capital, as of any time, in amounts sufficient to enable the Partnership . . . to (A) pay Partnership . . . expenses then existing or reasonably anticipated to be incurred within the next six-month period, (B) pay other Partnership . . . non-discretionary items (such as taxes and tax distributions) and satisfy other Partnership . . . expenses and obligations incurred in the ordinary course of business, [and] (C) pay the Management Fee for the next 12-month period.[307]

Subsection 5(a)(ii)(E) authorizes the GP to call capital in amounts sufficient to "invest in Projects approved by the holders of a majority of the Preferred Units in writing in accordance with a budget therefor approved by such holders of Preferred Units."[308]

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[305] *See* JX-1387 at 1; JX-1388 at 1; JX-1390 at 1; JX-1391 at 1; JX-1393 at 1; JX-1394 at 1; JX-1395 at 1; JX-1396 at 1; JX-1397 at 1; JX-1398 at 1; JX-1415 at 1; *see also* JX-1622.

[306] Trial Tr. at 109:1–110:24 (Harrison); *see also* LPA Am. 13 ¶ 17(d).

[307] LPA Am. 3 ¶ 5(a)(ii)

[308] *Id.* Amendment 3 originally provided for an ATC board of directors and made certain distinctions depending on whether a project was "being run through ATC" or not. *Id.* at 1–2. Amendment 14 excised ATC, and with it the ATC board of directors, from the LPA. JX-16 at 5 (LPA Am. 14).

Rigmora concedes that the stated purpose of the Capital Calls is proper under the LPA. Aside from Replicate, Rigmora does not dispute that it approved budgets for the calls at issue or that the calls were within the approved budgets. Nor does Rigmora dispute that partnership expenses and ATLS Fees are proper purposes for capital calls or that those expenses were improperly calculated.

Rigmora instead advances three arguments to avoid its payment obligation. First, Rigmora argues that ATP cannot call capital because ATP acted in bad faith.[309] Second, Rigmora argues that the approved budgets called for tranched funding conditioned on milestones set out in investment memoranda, which served as conditions to Rigmora's funding obligations, and which the projects did not achieve.[310] Third, as to Replicate, Rigmora argues that Replicate budget was subject to contingency set out in Amendment 22 that the LPs realize at least $300 million from a sale or financing of their interest in the Braeburn royalty, which has not yet occurred.[311]

a. Bad Faith

Rigmora argues that ATP cannot call capital because it acted in bad faith when making the Capital Calls. The LPA permits the General Partner to call capital only for a purpose enumerated in Paragraph 5(a)(ii).[312] The Cayman Islands' Exempted Limited Partnership ("ELP") Act, as adopted by the LPA, requires the General

[309] Rigmora Post-Trial Br. at 44–47.

[310] *Id.* at 40–43.

[311] *Id.* at 43–44; LPA Am. 22 ¶ 26.

[312] LPA Am. 3 ¶ 5(a)(ii).

Partner to exercise its power to call capital in good faith in accordance with its fiduciary duties—which Cayman courts have held requires it to act in the interests of the Fund's limited partners.[313] Rigmora argues that, as a plaintiff seeking specific performance, ATP must prove by clear and convincing evidence that it satisfied the LPA's requirements for all calls and that they are consistent with the ATP's fiduciary duties under Cayman law.[314]

It is unclear whether Rigmora is correct in interpreting Cayman law to mean that a General Partner must prove fiduciary compliance as a condition to enforcing capital calls. Typically, a party relying on the absence of a condition to avoid a contractual obligation bears the burden of proving its absence.[315] But ATP did not challenge this legal assertion. And the accuracy of Rigmora's legal position does not alter the outcome in any event, because there is no factual basis to question ATP's good faith.

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[313] *See* JX-2019, ELP Act § 19(1) ("A general partner shall act at all times in good faith and . . . in the interests of the exempted limited partnership."); JX-1 at 2 (requiring parties to carry on the limited partnership "in accordance with the provisions of the" ELP Act); *id.* ¶ 18(g)(i) (LPA governed by ELP Act); JX-2073, *Kuwait Ports Authority v Port Link GP Ltd* [2023] 1 CILR 50 at [34(iii)]; JX-2074, *Re Aquapoint LP*, CICA (Civil) Appeal No. 0014 of 2022, [2023], at [67].

[314] Rigmora Post-Trial Opening Br. at 44–47; *see also* Bloch Report ¶ 83.

[315] *See generally S'holder Representative Servs. LLC v. Shire US Hldgs. Inc.*, 2020 WL 6018738, at *17 (Del. Ch. Oct. 12, 2020), *aff'd* 267 A.3d 370 (Del. 2021) (TABLE); *AB Stable VIII LLC v. Maps Hotels & Resorts One LLC*, 2020 WL 7024929, at *48–50 (Del. Ch. Nov. 30, 2020), *aff'd,* 268 A.3d 198 (Del. 2021).

Harrison testified that the Capital Calls were for the purpose of funding six months of operations.[316] ATP considered numerous scenarios, evaluating how much capital to call in order to continue funding operations.[317] Harrison ultimately based the size of the Capital Calls on the portfolio companies' research plans and the partnership's expenses.[318] He excluded his own Management Fee from the Capital Calls, so none of the money would be directed to him.[319] Harrison then realized that ATP overcalled capital for Replicate based on the approved budget and corrected that Capital Call on June 1.[320] Harrison's testimony was highly credible.

To argue bad faith, Rigmora states that ATP's "correspondence demonstrates that the capital calls were made at least in part to 'put pressure on' the [Limited Partners]."[321] Rigmora bases this assertion on a May 14, 2025 email among ATP's outside attorneys.[322] The email states: "The point of making the calls is to put pressure on [Rigmora], so let's put the pressure on [Rigmora]."[323] On its face, this statement is not alarming. Contractual rights can be a source of pressure. That does not mean exercising them is an act of bad faith. Moreover, a single line in a single email among outside counsel does not undermine the extensive evidence

[316] Trial Tr. at 110:12–16 (Harrison).

[317] *Id.* at 152:7–153:14 (Harrison).

[318] *Id.* at 110:17–24 (Harrison).

[319] *Id.* at 111:4–10 (Harrison).

[320] *Id.* at 109:24–110:5 (Harrison).

[321] *Id.* at 45.

[322] Dkt. 269 at 45 (citing JX-2155 at 2).

[323] JX-2155 at 2.

demonstrating Harrison's sincere concerns about the financial health of the portfolio companies.

Rigmora's grab-bag of other arguments similarly fail. Rigmora argues that ATP delayed capital calls to maximize its litigation position.[324] But the evidence does not point to that conclusion. ATP recognized the portfolio companies' urgent need for funding and knew that Rigmora would immediately file suit in the Cayman Islands as soon as ATP issued capital calls.[325] Rigmora describes the calls as improper because ATP did not intend to distribute all the capital called to portfolio companies as required under the LPA.[326] But ATP withheld some capital to ensure that the funds would not be subject to attachment by creditors leaving the companies without funding to pay severance to employees.[327] Rigmora emphasized in briefing how the anticipated amount of capital calls evolved leading up to this lawsuit.[328] But the evidence reflects that ATP ran scenarios and considered calling capital sufficient to fund ongoing work at the portfolio companies for periods of weeks, three months, six months, and the end of calendar year 2025-2026.[329] None of this supports a finding that ATP acted in bad faith.

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[324] Rigmora Post-Trial Opening Br. at 45.

[325] *See* JX-2138 at 1–2.

[326] Rigmora Post-Trial Opening Br. at 45; LPA Am. 3 ¶ 5(a)(ii)(E).

[327] Yanchik Dep. Tr. 218:23–219:22.

[328] Dkt. 269 at 45-47.

[329] Trial Tr. at 152:5–19 (Harrison).

b. Milestones

Rigmora argues that the milestones set out in investment memoranda served as conditions to Rigmora's obligations to fund capital calls. No evidence supports this assertion.

As discussed above,[330] no evidence suggests that anyone intended the performance milestones identified in the investment memoranda to serve as conditions to Rigmora's obligation to fund budgets that it approved. Harrison and Rybolovlev never discussed nor negotiated the milestones.[331] Rigmora lacked the substantive expertise to set or track performance milestones.[332] Only two of the approved budgets contained any express milestones, and they were based on corporate strategy metrics.[333] The fact that certain of the Rigmora-approved budgets contained express milestones suggests that the parties did not intend to condition the other budgets on milestones contained in the investment memoranda. And although the Series A agreements of five companies (Marlinspike, Aethon, Aulos, Braeburn, and Replicate) originally contained milestone conditions, those conditions applied to the Fund's obligation to fund the companies, not the limited partners' obligation meet capital calls.[334]

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[330] *See supra* § I.B.

[331] *Id*. at 33:11–14 (Harrison).

[332] Bogdanov Dep. Tr. at 31:2–9, 45:23–46:10, 46:11–15; Blöchlinger Dep. Tr. at 37:17–25; Yakovlev Dep. Tr. at 30:23–25.

[333] *Id*. at 33:23–34:5 (Harrison); JX-1192 at 2.

[334] *See* JX-2201; Trial Tr. at 140:5–10 (Harrison); *see, e.g.*, JX-1329 at 64, 167, 441, 586.

Moreover, treating milestones in dated investment memoranda as a fixed condition to future funding misaligns the budgeting process with the commercial realities of biotech investing.[335] "[M]any very successful therapeutics have missed development milestones."[336] Apparent "misses" were often successful pivots that increased value. Deep Apple pivoted to obesity and secured a partnership worth up to $812 million with Novo Nordisk.[337] Apertor's pivot led to a "breakthrough publication" demonstrating "incredible" platform value, ultimately leading to delivering clinical candidates.[338] Information regarding portfolio companies' pivots were regularly reported to Rigmora in quarterly reports provided by ATP.[339]

Milestones were informative on many levels to Fund management. But Rigmora did not staff anyone with a scientific background. Rigmora went nearly thirteen years without requesting information about milestones.[340] Its interest in milestones surfaced as a defense strategy in this action, and an unsuccessful one. Rigmora cannot rely on the absence of milestone achievements to avoid its funding commitments.

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[335] Trial Tr. at 105:3–11 (Harrison); *see* JX-1583 ("Robbins Rebuttal") ¶ 26.

[336] Trial Tr. at 189:11–18 (Robbins).

[337] Robbins Rebuttal ¶ 27.

[338] Trial Tr. at 253:13–254:3 (Liras).

[339] *Id.* at 255:13–256:21, 257:2–259:1, 262:8–264:9 (Liras); *see, e.g.*, JX-0560.

[340] Trial Tr. at 332:1–333:2 (Bogdanov).

c. Replicate

Replicate is different. The Replicate budget was approved on February 12, 2025.[341] Replicate was one of the five companies addressed in Amendment 22. It is thus subject to the contingency set out in Amendment 22 stating that the LPs realize at least $300 million from a sale or financing of their interest in the Braeburn royalty.[342] Neither event has occurred. So Rigmora need not meet the call.

ATP advances a factual response to this outcome, but it is somewhat convoluted. According to ATP, when the parties executed Amendment 22 in December 2024, they expected the then-current, unfunded budget amounts for each of the five projects listed in the new Paragraph 26—including Replicate—to last for a matter of weeks. In the case of Replicate, the parties anticipated that the budget would run out in February 2025. Paragraph 26 of Amendment 22 thus called for the discussion of a new budget sufficient to enable Replicate to operate for a period twelve months after that.[343] ATP portrays the financing condition as inconsistent with the dire circumstances under which the parties executed Amendment 22.[344]

But the language of Amendment 22 is plain. It conditions Royalty Financing on budget approval, providing that "[i]f any approval of a new budget is given by the Subject limited Partner, *such approval shall be contingent upon* at least $300 million being realized (including through deemed distributions) by the Subject Limited

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[341] JX-1192.

[342] LPA Am. 22 ¶ 26.

[343] *Id.*

[344] ATP Post-Trial Reply Br. at 27–28; *see also* ATP Post-Trial Opening Br. at 29–31

Partner on a sale or financing of its interest in ATP LLC."[345] At the time, Rigmora indicated that it would not be difficult to obtain the Royalty Financing, and ATP expected that Rigmora would "do and perform, or cause to be done and performed, all such further acts and things . . . to carry out the intent and accomplish the purposes of this Amendment . . . ," including securing Royalty Financing.[346] Whether Rigmora honored this commitment is not before the court. But there is not Royalty Financing, so the Replicate budget is not approved, and ATP may not enforce Capital Calls for Replicate.

3. Specific Performance

A grant of specific performance "is a specialized form of mandatory injunction that requires a party to fulfill its contractual obligations."[347] Specific performance is appropriate when (1) a valid contract exists, (2) the plaintiff is ready, willing, and able to perform, (3) money damages are inadequate, and (4) the balance of equities tips in the plaintiff's favor.[348] To obtain specific performance, a plaintiff must prove these conditions by clear and convincing evidence.[349]

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[345] LPA Am. 22 ¶ 26 (emphasis added).

[346] LPA Am. 22 ¶ Miscellaneous.

[347] *26 Cap. Acq. Corp. v. Tiger Resort Asia Ltd.*, 309 A.3d 434, 464 (Del. Ch. 2023); *see also supra* n.260 (explaining why this decision applies Delaware law on the request for specific performance).

[348] *See Osborn ex rel. Osborn v. Kemp*, 991 A.2d 1153, 1158 (Del. 2010); *AbbVie Endocrine Inc. v. Takeda Pharm. Co. Ltd.*, 2021 WL 4059793, at *6 n.97 (Del. Ch. Sept. 7, 2021) ("It is elementary that the remedy of specific performance is designed to take care of situations where the assessment of money damages is impracticable[.]").

[349] *West*, 342 A.3d at 321.

As discussed above, ATP has proven by clear and convincing evidence that Rigmora must meet Capital Calls within approved portfolio company budgets and the Contingent Subscription with the exception of Replicate.[350] Rigmora must also fund calls issued for Fund expenses falling within those parameters.[351] Excluding Replicate, Rigmora's portion of those calls is $96,960,925.88. ATP also stands ready, willing, and able to perform.

Money damages are inadequate. The LPA sets out deadlines for meeting Capital Calls.[352] And timing matters. As discussed above, the negative impacts of a funding default for early-stage life sciences companies can be fatal.[353] The companies' research could ramp up again upon receipt of funding.[354] But they cannot stay in a holding pattern indefinitely.[355]

Further, a contractual provision stipulating the parties' preference of specific performance favors granting specific performance.[356] It is even more so when the agreement is between "sophisticated entities that bargained at arm's length."[357] In the LPA, sophisticated parties stipulated that damages for funding defaults "cannot

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[350] *See* JX-1 ¶ 5(a)(i).

[351] *See id*.

[352] LPA ¶ 5(a)(iii).

[353] Rao Report ¶ 67.

[354] *Id.* at 163:17–165:4 (Yanchik); *see also id.* at 114:2–12 (Harrison).

[355] *Id*. at 165:5–9, 166:6–167:2 (Yanchik).

[356] *See L-5 Healthcare P'rs, LLC v. Alphatec Hldgs., Inc.*, 2024 WL 3888696, at *7 (Del. Ch. Aug. 21, 2024).

[357] *See id*. (quoting *In re Cellular Tel. P'ship Litig.*, 2021 WL 4438046, at *72 (Del. Ch. Sept. 28, 2021)).

be estimated with reasonable accuracy."[358] This language supports a finding that damages would be inadequate.

Rigmora argues that ATP cannot seek specific performance of the capital calls for Ascidian, Aethon, Evercrisp, or Fund expenses because ATP has already used other Fund proceeds intended for other purposes to invest in the companies.[359] But rediverting funds to those companies was necessary to mitigate harm against them. The fact that ATP did so does not eliminate Rigmora's funding obligations.

On balance, the equities favor ATP. Rigmora has the funds available to meet the Capital Calls.[360] Moreover, the portfolio companies are developing treatments for serious medical conditions, including childhood blindness, various cancers, obesity, and neurodegenerative diseases. The public interest strongly favors preserving potentially life-saving research programs.[361]

For these reasons, ATP is entitled to specific performance of the Capital Calls excluding Replicate, or $96,960,925.88.

B. Budget Approvals

ATP claims that Rigmora breached its implied duties of good faith, honesty, and rationality when reviewing and denying the budgets circulated on December 24

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[358] JX-0001 at 25 (LPA ¶ 5(c)).

[359] Rigmora Post-Trial Br. at 47 (citing JX-2130 ¶¶ 17, 25 (listing payments for Ascidian, Aethon, Replicate, Evercrisp, and Fund expenses); PTO ¶ 64).

[360] Trial Tr. at 473:1–6 (Yakovlev).

[361] *Cf. Morabito v. Harris*, 2002 WL 550117, at *2 (Del. Ch. Mar. 26, 2002); *Bernard Pers. Consultants, Inc. v. Mazarella*, 1990 WL 124969, at *3 (Del. Ch. Aug. 28, 1990).

and for Marengo.[362] ATP does not root its claim in fiduciary obligations, nor could it. Section 19(2) of the ELP Act eliminated any fiduciary obligations, so Rigmora does not owe fiduciary obligations to the Fund.[363]

Rather, ATP's claim is based in contract law. Under English and Cayman common law, which govern this analysis,[364] a court may imply contract terms in one of two scenarios: when "the term must be necessary either to spell out what is so obvious that it goes without saying [the obviousness test] or to give business efficacy to the contract [the business-efficacy test]."[365]

ATP seeks to imply a specific set of obligations—to act honestly, rationally, and in good faith.[366] These implied duties, referred to as "*Braganza* duties" after the

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[362] ATP's claim first identified budgets for Marengo, Ascidian, and Aulos but it has since shifted to the budgets for Marengo, Aulos, Replicate, and Nine Square. *Compare* Compl. ¶ 179, *with* ATP Post-Trial Opening Br. at 66, 73.

[363] ELP Act § 19(2).

[364] LPA ¶ 18(g)(1) (stating that the "terms and provisions" of the LPA "shall be construed under the laws of the Cayman Islands, and Cayman law governs ATP's claim of breach"); PTO ¶ 25. Cayman courts view English cases as persuasive authority when Cayman law does not provide direct guidance. Phillips Report ¶¶ 19–20. Because no Cayman court has decided this issue, this opinion relies upon English authority when available.

[365] *USDAW v. Tesco Stores*, [2024] UKSC 28 at [102], available in the record as JX-2116; *see also Marks & Spencer v. BNP Paribas*, [2015] UKSC 72 at [20], available in the record as JX-2042; *Primeo Fund (In Official Liquidation) v. Bank of Bermuda (Cayman) Ltd.*, [2017] CILR 334 at [211], available in the record as JX-2056; *Cayman Shores v. Registrar of Lands*, [2021] (2) CILR 1 at [65]–[66], available in the record as JX-2120; Bloch Report ¶ 29.

[366] Phillips Report ¶ 75.

eponymous case, apply in certain circumstances when a party exercises a unilaterally conferred discretionary power under a contract.[367]

Braganza involved an employment contract between BP Shipping Ltd. and an employee who died mysteriously on one of its ships.[368] If the employee died by suicide, then BP Shipping had the discretion under the employment contract to deny his widow a contractual death benefit.[369] The company denied the widow the death benefit, and the widow sued for breach of an implied contractual term. The Supreme Court of the United Kingdom held that a party exercising a discretionary control of another's rights has an obligation to act "rationally (as well as in good faith) and consistently with its contractual purpose"[370] when a conflict of interest arises due to that control.[371] The court emphasized that the "conflict is heightened where there is a significant imbalance of power between the contracting parties."[372] To prevent abuse of discretion, the court will ensure the power is exercised in good faith and not arbitrarily, capriciously, or perversely.[373]

According to ATP, a court should imply *Braganza* duties when three factors are present: (1) the existence of a discretionary power granted to one party; (2) that

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[367] *Braganza v. BP Shipping Ltd.*, [2015] UKSC 17, at Headnote, [18]–[19], available in the record as JX-2102.

[368] *Id.*

[369] *Id.* at Headnote, [10]–[11].

[370] *Id.* at Headnote, [30].

[371] *Id.* at Headnote, [18].

[372] *Id.*

[373] *Id.* at Headnote, [30]–[31].

power's potential to harm the other party's interests; and (3) a conflict of interest where the decision-maker could exercise the power to benefit themselves at the other party's expense.[374] It is unclear whether English or Cayman courts apply the three-factor *Braganza* test for which ATP advocates. The case law supplied by the parties does not frame *Braganza* in this manner, nor does either side's expert in Cayman law. And the parties do not join issue on the precise requirements for implying contractual terms generally or *Braganza* duties specifically.[375]

It is clear, however, that contractual context matters in the analysis of whether to imply contractual terms.[376] In an effort to shortcut the analysis, Rigmora argues that a court can never imply *Braganza* duties in this specific context—on a limited partner of a Cayman exempted limited partnership.[377]

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[374] *Id.* at [18], [30].

[375] *See generally* ATP Post-trial Opening Br. at 66-76, Rigmora Post-Trial Br. at 48–60.

[376] *Braganza*, [2015] UKSC 17, at Headnote [31] ("But whatever term may be implied will depend on the terms and the context of the particular contract involved.").

[377] Rigmora Post-Trial Br. at 50–51 (citing *In re Torchlight Fund LP*, FSD 103 of 2015 (RMJ), 25 September 2018, at [1189]–[1190], available in the record as JX-2061). *Torchlight* is remarkable in a few ways. Justice Robin McMillan issued the decision *after* the parties settled the case. JX-2061.0002. He noted that "the Court was invited . . . to withdraw the Petition" in light of the settlement but had "independent discretion to decide whether to deliver its Judgment or not." *Id.* The Justice determined to deliver his Judgment in part because he believed that the two directors of the General Partner were improperly maligned by the allegations, which "the public is entitled to know." *Id.* He viewed issuing his determination a matter of "human rights as much as . . . as matter of commercial law." *Id.* He then issued a 366 page decision.

Rigmora's primary authority does not support a categorical exclusion. Rigmora relies primarily on *Torchlight Fund LP*, where a limited partner of a Cayman exempted limited partnership alleged the general partner owed *Braganza* duties when exercising a discretionary right to send a default notice to the limited partner without first consulting the limited partner.[378] In a brief discussion toward the end of a lengthy analysis, the Cayman court declined to impose *Braganza* duties.[379] The court first noted the relevance of Section 25(1) of the ELP Act, which limits court interference with remedies under partnership agreements.[380] Next, referencing Section 25(1), the court reasoned that:

> It is the view of this Court that those who enter into and participate in complex and sophisticated commercial arrangements must be taken to be fully aware of what they are doing and what the potential consequences may be. Not only are they bound in this case by the LPA but that LPA itself is further grounded in this instance by an express statutory provision [i.e., Section 25(1) of the ELP Act]. Therefore, taking into account the terms and context of this particular contract, the Court rules that the standard of review adopted in the judicial review of administration action [i.e., the implied duty] *does not apply nor does it have any relevance*.[381]

Rigmora interprets this passage to mean that a court can never imply a contractual duty of good faith under Cayman law where an express statutory

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[378] *In re Torchlight Fund LP*, FSD 103 of 2015 (RMJ), 25 September 2018, at [1189]–[1190], available in the record as JX-2061.

[379] *Id.* at [1180], [1182].

[380] *Id.* at [1188].

[381] *Id.* at [1189] (emphasis added).

provision already governs.[382] And that is a fair interpretation of *Torchlight*. But, unlike *Torchlight*, no express provision of the ELP Act governs here. Section 19(2) of the ELP Act eliminates general fiduciary obligations generally.[383] It does not eliminate implied contractual obligations. And the parties cite no statutory provision that governs a limited partner's discretion in approving budgets. *Torchlight*, thus, does not categorically prohibit this court from implying contractual duties of good faith into the LPA.

Torchlight, however, supports Rigmora's position in a more limited way. Fairly read, *Torchlight* stands for the proposition that a court will be reticent to imply *Braganza* duties in the ELP context because the power disparities that motivated *Braganza*—the power's potential to harm the other party's interest—are less present. *Braganza* involved a discretionary right wielded by a large multi-national corporation against its late employee's widow.[384] Other cases implying *Braganza* duties involve discretionary rights wielded by an insurance corporation against an insured.[385] The power disparities between the parties existed both at the time of contracting and at the time the counterparty exercised its discretionary right.[386]

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[382] Rigmora Post-Trial Br. at 51.

[383] ELP Act § 19(2).

[384] *Braganza*, [2015] UKSC 17 at [1189].

[385] *Equitas Ins. Ltd v Municipal Mut. Ins. Ltd* [2019] EWCA Civ [114]–[118], available in the record as JX-2047 (implying a term between insurers).

[386] *Braganza* does not provide clarity on the timing of when a court should assess these factors, and the parties did not specifically address this issue. Generally, "[t]he test for the implication of a *Braganza* duty is one of necessity[.]" *Horlick v Cavaco*, [2022] EWHC 2935 (KB) at [175] (citing *Equitas Ins. Ltd v. Municipal Mut. Ins. Ltd*,

The ELP context is different. As the *Torchlight* court observed: "those who enter into and participate in complex and sophisticated commercial arrangements must be taken to be fully aware of what they are doing and what the potential consequences may be."[387] And that is factually true here—both Rigmora and ATP are highly sophisticated, and the LPA was heavily negotiated. Moreover, the parties cite to no case in which applicable authorities have implied *Braganza* duties in the ELP context. And if a court is unwilling to impose implied contractual obligations on a general partner as in *Torchlight*, then it will be an exceptional case that the court imposes implied obligations on a limited partner.

This case is not the exception. Of the three *Braganza* factors identified by ATP, only two of the three are met. The LPA grants Rigmora the discretion to approve budgets. But the presence of other factors suggests that one cannot imply *Brananza* duties due to the existence of a discretionary right alone. And Rigmora's ability to reject budgets can impede ATP's right to call capital and operate the Fund. But it would be weird to describe the parties as conflicted concerning whether to call capital. It is true that Rigmora's liquidity issues changed its investment strategy. And a need for liquidity can provide a source of conflict in certain circumstances. But at the end

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[2019] EWCA Civ 718 at [150]–[151]). The tests for necessity are the business efficacy and obviousness tests. To satisfy those tests, a court will imply a term "in the way that the parties must have intended or reasonably expected it to work." *Equitas Ins. Ltd*, [2019] EWCA at [151]. This suggests that the court analyzes the *Braganza* factors ex ante. *See also* Bloch Report ¶ 24 (citing *Arnold*, [2015] UKSC at [19]) (explaining a court should interpret a contract "as at the date that the contract was made"). But, again, it is unclear. In this analysis, it does not matter.

[387] *Id.*

of the day, Rigmora owns over 98% of the Fund. Rigmora is thus highly interested in the success of its portfolio companies. And Rybolovlev's family-pharma goal, and desire to replicate his success at Uralkali, meant that he would ultimately consolidate funds behind only some of the portfolio companies and successful therapies. Rigmora's liquidity needs might have hastened that process. This, however, does not seem to be the type of conflict motivating *Braganza* duties.

Because the circumstances do not warrant implying *Braganza* duties, the analysis could end here. But, again, the parties did not neatly join issue on the relevant legal framework, and ATP analyzes the business efficacy and obviousness tests as well the *Braganza* factors. For completeness, so too does this decision.

In *USDAW v. Tesco Stores*, Lord Leggatt expounded on the business-efficacy and obviousness tests.[388] The business-efficacy test involves two steps. The court must first identify the relevant contractual purpose.[389] The court must then ask "whether the implication of a term is necessary to give effect to that purpose and prevent it from being defeated."[390] The implied term cannot conflict with existing provisions, and it must be "strictly necessary."[391]

Under the obviousness test, a court only implies a term if it is "so obvious it goes without saying."[392] The court must assess what reasonable people in the

[388] [2024] UKSC 28 at [106].

[389] *Id.*

[390] *Id.*

[391] *Id.*

[392] *Id.* at [102].

positions of the parties at the time would have agreed.[393] Actual intent does not matter.[394] Regarding detailed commercial contracts, "[a] term should not be implied . . . merely because it appears fair or merely because the court considers the parties would have agreed it if it had been suggested to them . . . [it] is a stringent test."[395]

Neither test is satisfied. Starting with the first step of the business-efficacy test, the LPA's purpose is facilitating investment in "in pharmaceutical medical device and other medically-related companies and business projects."[396] ATP seeks to imply a "good faith, honestly, and rationally" modifier to Rigmora's discretion to approve budgets.[397] Inserting that term, however, is not strictly necessary for effectuating the LPA's purpose because ATP and Rigmora share economic incentives to approve budgets. They relied on the existing provision for years, approving budgets without issue, and the Fund operated without incident. No implication is needed.

The obviousness test also fails. At the time of contracting, Rigmora contributed nearly all the Fund's capital. It thus makes sense that Rigmora secured the absolute discretion to reject budgets and negotiated for the ability to preserve its capital by blocking budgets. It is not so obvious or goes without saying that a reasonable

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[393] *Yoo Design Services v Iliv Realty Pte*, [2021] EWCA Civ 560 at [51], available in the record as JX-2113.

[394] *Id.*

[395] *Id.*

[396] LPA Am. 1 ¶ 1(c).

[397] ATP Post-trial Opening Br. at 66.

potential limited partner would have agreed to constrain its discretion to approve budgets.

Ultimately, none of the relevant tests support implying a good faith term. Because Rigmora had no implied duty to breach, ATP's claim fails.

C. Declaratory Relief

ATP also seeks two forms of declaratory relief: a declaration that ATP's filing of this action does not violate the Exculpation Provision and is consistent with the Discretionary-Action Provision of the LPA, and a declaration that parties have not amended the Global Default Provision.[398]

Declaratory relief "is appropriate only if there is an actual controversy between the parties."[399] The Delaware Supreme Court has articulated four prerequisites for to an "actual controversy":

> (1) It must be a controversy involving the rights or other legal relations of the party seeking declaratory relief; (2) it must be a controversy in which the claim of right or other legal interest is asserted against one who has an interest in contesting the claim; (3) the controversy must be between parties whose interests are real and adverse; (4) the issue involved in the controversy must be ripe for judicial determination.[400]

On the fourth factor specified by the high court, "[a] ripeness determination requires a commonsense assessment of whether the interests of the party seeking immediate

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[398] PTO ¶ 74(f); Dkt. 266, [Proposed] Order and Final Judgment ¶¶ 2(b), 2(d).

[399] *Dana Corp. v. LTV Corp.*, 668 A.2d 752, 755 (Del. Ch. 1995).

[400] *XL Specialty Ins. Co. v. WMI Liquid. Tr.*, 93 A.3d 1208, 1217 (Del. 2014) (quoting *Stroud v. Milliken Enters., Inc.*, 552 A.2d 476, 479–80 (Del. 1989)).

relief outweigh the concerns of the court in postponing review until the question arises in some more concrete and final form."[401] A dispute is ripe if "litigation sooner or later appears to be unavoidable" and "the material facts are static."[402] Ultimately, Delaware's approach to declaratory relief and ripeness leaves the determination to the discretion of the court.[403] "The [c]ourt may . . . properly decline to entertain a declaratory judgment claim where another remedy is available and would be more 'effective or efficient.'"[404]

1. The Exculpation And Discretionary-Action Provisions

ATP seeks a declaratory judgment that ATP's filing of this action was in good faith, falls within the Exculpation Provision, and was authorized under the

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[401] *XL Specialty*, 93 A.3d at 1217 (citation modified); *see also Nask4Innovation Sp. Z.o.o. v. Sellers*, 2022 WL 4127621, at *4 (Del. Ch. Sept. 12, 2022) ("In determining whether a dispute is ripe, the Court must take a practical view of all relevant facts and make a common-sense determination of whether adjudicating a dispute at present is a prudent use of judicial resources.").

[402] *XL Specialty*, 93 A.3d at 1217 (quoting *Julian v. Julian*, 2009 WL 29371212, at *3 (Del. Ch. Sept. 9, 2009)) (citation modified).

[403] *See Stroud v. Milliken Enters., Inc.*, 552 A.2d at 480 ("The reasons for not rendering a hypothetical opinion must be weighed against the benefits to be derived from the rendering of a declaratory judgment. This weighing process requires "the exercise of judicial discretion[.]"); *Horizon Pers. Commc'ns, Inc. v. Sprint Corp.*, 2006 WL 2337592, at *17 (Del. Ch. Aug. 4, 2006) ("The ripeness of a dispute is a matter entrusted to the discretion of the trial court." (quoting *UbiquiTel Inc. v. Sprint Corp.*, 2006 WL 44424, at *2 (Del. Ch. Jan. 4, 2006))) (citation modified).

[404] *Walton v. Walton*, 2025 WL 2555839, at *8 (Del. Ch. Sept. 2, 2025) (quoting *Reylek v. Albence*, 2023 WL 4633411, at *6 (Del. Super. July 19, 2023)); *see also Markusic v. Blum*, 2021 WL 2456637, at *4–5 (Del. Ch. June 16, 2021), *aff'd*, 284 A.3d 1017 (Del. 2022) (declining to issue declaratory judgment where concurrent litigation in another court would sufficiently address the controversy); *Burris v. Cross*, 583 A.2d 1364, 1370–76 (Del. Super. Ct. 1990) (same).

Discretionary-Action Provision.[405] ATP seeks this declaration in part because Rigmora argues in the Cayman Litigation that ATP filed this action in breach of its fiduciary duties.

Rigmora argues that ATP's claim under the Exculpatory Provision is unusual. Exculpatory provisions shield a covered person from liability for covered claims. And there is no ripe claim here, because Rigmora does not argue in this dispute that ATP breached its fiduciary duties.[406]

Rigmora has the better of the argument here; ATP's request for declaratory judgment is not suitable for resolution in this forum. Delaware law governs a gross negligence standard in the Exculpation Provision; but otherwise, Cayman law governs both the Exculpatory Provision and the Discretionary-Action Provision. Further, the underlying dispute around whether ATP's filing of this action constitutes

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[405] Compl. ¶ 196; PTO ¶ 74(f); LPA ¶ 2(g) ("To the fullest extent permitted by law, neither the General Partner nor any of its affiliates shall incur liability . . . provided that in any such case (i) the General Partner's or such affiliate's course of conduct was in good faith and (ii) such course of conduct did not constitute willful fraud, willful misconduct, gross negligence as determined under the laws of the State of Delaware without regard to otherwise governing principles of conflicts of law ("Gross Negligence") or an intentional and material breach of this Agreement on the part of the General Partner[.]"; LPA ¶ 18(g)(iv) ("In determining what action, if any, shall be taken against a Limited Partner in connection with such Limited Partner's breach of this Agreement, the General Partner shall seek to obtain a favorable result (as determined by the General Partner in its sole discretion . . . . To the fullest extent permitted by law, each Limited Partner hereby specifically agrees that, in the event such Limited Partner violates the terms of this Agreement, such Limited Partner shall not be entitled to claim that the Partnership or any of the other Partners are precluded, on the basis of any fiduciary or other duty arising in respect of such Limited Partner's status as such, from seeking any of the remedies permitted under this Agreement or applicable law.").

[406] Rigmora Post-Trial Br. at 61–62.

a breach of its fiduciary duties is central to Rigmora's Winding Up Petition in the Cayman Litigation.[407] As a commonsense matter, this court has little reason to resolve the issue, which was not a core dispute in this litigation.[408] The factual findings in this decision speak for themselves. And Cayman court is well positioned to assess their implications under Cayman law. Commonsense dictates reserving judgment on both of ATP's requests for declaratory relief concerning the Exculpatory and Discretionary-Action Provisions.

2. Global Default Provisions

ATP seeks a declaratory judgment concerning the Global Default Provision, although the nature of the ATP's requested declaration has evolved over the course of this litigation.

In its Complaint, ATP requested a declaration that Rigmora is "in breach of its funding and budget approval obligations sufficient to qualify as a Defaulting Partner."[409] ATP requested similar relief in the Pre-Trial Order.[410] The Writ Injunction, however, prohibits ATP from "taking any steps against [Rigmora] to enforce any purported default provisions" related to the May 30 and June 1 capital calls.[411] At trial, therefore, ATP withdrew any request contrary to the Writ

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[407] JX-1417 ¶ 26; ATP Post-Trial Reply Br. at 44.

[408] *See id.*

[409] *Markusic*, 2021 WL 2456637, at *5.

[410] PTO ¶ 74(a)(iv) (requesting a declaration that Rigmora "breached [its] obligations under the LPA to fund and approve budgets sufficient to qualify as a Defaulting Partner").

[411] JX-1434 ¶ 1. *Compare* Compl. ¶ 183–92, *with* PTO ¶ 74(a)(iv).

Injunction.[412] In post-trial briefing, ATP seeks a far more limited declaration, asking for "an order declaring that the Global Default provision[,]" Paragraph 5(c) of the LPA, "governs defaults" and "ha[s] not been altered or amended."[413]

As currently framed, ATP's request is so narrow as to be undisputed, as Rigmora does not deny that the Global Default Provisions have never been amended.[414] Because there is not dispute between the parties on this point, there is no actual controversy. ATP's request for declaratory relief is not ripe. For that reason, it is dismissed.

D. Attorney's Fees

ATP requested attorney's fees under the "loser pays" principles of Cayman Island laws and the Common Law in the Complaint and in the Pre-Trial Order.[415] The Pre-Trial Order referred the court to ATP's pre-trial brief for a discussion of disputed issues, but ATP's pre-trial brief did not address the issue.[416] Rigmora addressed this issue directly in pre-trial briefing, arguing that the American rule under Delaware law governs the issue of attorney's fees.[417] ATP's post-trial opening brief made no mention of attorneys' fees. ATP did not address this issue until its post-trial reply brief and then did so in a cursory fashion.

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[412] ATP Pre-Trial Br. at 56 n.22.

[413] ATP Post-Trial Opening Br. at 82; Dkt. 266, [Proposed] Order and Final Judgment ¶¶ 2(b), 2(d).

[414] *See* Rigmora Post-Trial Br. at 60.

[415] PTO ¶ 74(g).

[416] *See generally* ATP Post-Trial Opening Br.

[417] Rigmora Post-Trial Br. at 62.

Whether a party has waived an argument by failing to raise it in briefing is a procedural matter, so Delaware law governs whether ATP's request for attorneys' fees has been waived.[418] "It is settled Delaware law that a party waives an argument by not including it in its brief."[419] "[A]n issue not raised in post-trial briefing has been waived, even if it was properly raised pre-trial."[420]

ATP's failure to meaningfully brief the issue of its entitlement to fees under Cayman law until its post-trial reply brief constituted waiver. Thus, to the extent that Cayman law supports awarding ATP its attorney's fees and expenses, which this decision does not address, the claim is denied.

III. CONCLUSION

Excluding the Capital Call for Replicate, Rigmora is ordered to specifically perform its obligation to fund the Capital Calls. ATP is not entitled to specific performance relating to the budgeting approvals. ATP's request for a declaratory judgment concerning the Exculpatory Provision or the Discretionary-Action Provision are held in abeyance. ATP's request for a declaratory judgment concerning the Global

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[418] *See Wheeler v. Wheeler*, 636 A.2d 888, 891 (Del. 1993); *Americas Mining Corp. v. Theriault*, 51 A.3d 1213, 1264 (Del. 2012) (Berger, J., concurring) (unanimously holding that "the motion for reargument is procedurally barred under Delaware law, because the issue raised on reargument was not fully and fairly presented in the Defendants' opening briefs"); *Chaplake Hldgs., LTD. v. Chrysler Corp.*, 766 A.2d 1, 6 (Del. 2001).

[419] *Emerald P'rs v. Berlin*, 2003 WL 21003437, at *43 (Del. Ch. Apr. 28, 2003), *aff'd*, 840 A.2d 641 (Del. 2003).

[420] *Oxbow Carbon & Mins. Hldgs., Inc. v. Crestview-Oxbow Acq., LLC*, 202 A.3d 482, 502 n.77 (Del. 2019); *see also In re IBP, Inc. S'holders Litig.*, 789 A.2d 14, 62 (Del. Ch. 2001).

Default Provision is dismissed. ATP is noted entitled to its attorney's fees under the Cayman law's loser-pays rule. The parties are ordered to submit a form of order or competing forms of order implementing this decision within three business days.

EXHIBIT B

Entire Exhibit Filed Under Seal

EXHIBIT C

ATP Life Science Ventures, LP

Second Quarter 2025 Report

As of June 30, 2025

NOTICE:

This report is prepared at a time when the following litigation proceedings are ongoing and pending determination:

- ***In the Matter of ATP Life Science Ventures, LP*** **- FSD 151 of 2025 (JAJ) in the Grand Court of the Cayman Islands (the "Grand Court");**
- ***Unicorn Biotech Ventures One Ltd and anor. v ATP III GP, Ltd (in its capacity as general partner of ATP Life Science Ventures, LP)*** **- FSD 146 of 2025 (JAJ) in the Grand Court; and**
- ***ATP III GP, LTD., in its capacity as general partner of ATP Life Science Ventures, L.P. v. RIGMORA BIOTECH INVESTOR ONE LP and RIGMORA BIOTECH INVESTOR TWO LP*** **- C.A. No. 2025-0607-KSJM in the Court of Chancery of the State of Delaware**

(together, "the Litigation").

This report is intended to be neutral in respect of the issues in dispute in each of those ongoing proceedings and has been prepared accordingly. That approach is without prejudice to the position of ATP III GP, Ltd (in its capacity as general partner of ATP Life Science Ventures, LP) in each of those proceedings and the rights of ATP III GP, Ltd (in its capacity as general partner of ATP Life Science Ventures, LP) are fully reserved.

Joint Exhibit
JX-2275
C.A. No. 2025-0607-KSJM

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Performance Summary

ATP Life Science Ventures, L.P
As of June 30, 2025
($ in Millions)

Fund Name	Vintage	Committed Capital [1]	Contributed Capital [5]	Realized Proceeds	Residual Value	Total Value	IRR Gross [2]	IRR Net [3]	KPI [4] DPI	KPI [4] RVPI	KPI [4] TVPI
Pool ATP IV	2012	$ 1,408.13	$ 1,383.37	$ 1,766.06	$ 474.87	$ 2,240.93	20.22%	13.32%	1.28x	0.34x	1.62x
		$ 1,408.13	$ 1,383.37	$ 1,766.06	$ 474.87	$ 2,240.93	20.22%	13.32%	1.28x	0.34x	1.62x

Fund Name	Vintage	Committed Capital [1]	Contributed Capital [5]	Realized Proceeds	Residual Value	Total Value	IRR Gross [2]	IRR Net [3]	KPI [4] DPI	KPI [4] RVPI	KPI [4] TVPI
Pool V-1	2019	$ 200.00	$ 140.20	$ 60.65	$ 0.02	$ 60.67	0.00%	0.00%	0.43x	0.00x	0.43x
Pool V-2	2020	800.00	402.96	0.31	199.49	199.80	0.00%	0.00%	0.00x	0.50x	0.50x
Pool V-3	2021	500.00	409.54	-	265.19	265.19	-9.71%	-12.40%	0.00x	0.65x	0.65x
Pool V-1 / V-2 / V-3		$ 1,500.00	$ 952.71	$ 60.96	$ 464.70	$ 525.65	0.00%	0.00%	0.06x	0.49x	0.55x

Fund Name	Vintage	Committed Capital [1]	Contributed Capital [5]	Realized Proceeds	Residual Value	Total Value	IRR Gross [2]	IRR Net [3]	KPI [4] DPI	KPI [4] RVPI	KPI [4] TVPI
Pool ATP BB	2021	$ 411.45	$ 412.02	$ 667.86	$ 2,594.81	$ 3,262.67	89.64%	87.58%	1.62x	6.30x	7.92x
Pool ATP Braeburn		$ 411.45	$ 412.02	$ 667.86	$ 2,594.81	$ 3,262.67	89.64%	87.58%	1.62x	6.30x	7.92x

1) Represents the total Capital committed to the Pool for investments and fees and expenses.
2) Gross IRR includes the capital invested into portfolio companies and the proceeds received from the sale of portfolio companies plus the fair market value of the current portfolio.
3) Net IRR includes capital contributions made by the limited partners, distributions made to the limited partners plus the current value of the partners capital. The Net IRR does not include distributions made to ICU holders or carry distributions. The Net IRR includes the investment performance as well as all fees and expenses incurred by the Fund.
4) All KPI metrics are calculated using the net performance numbers. Net performance numbers include capital contributions made by limited partners, distributions made to the limited partners plus the current value of the partners capital. The KPI metrics include the investment performance as well as all fees and expenses incurred by the Fund.
5) Contributed capital amounts include contributions for fees and expenses.

YTD as of 6/30/2025	Pool ATP IV	Pool V-1	Pool V-2	Pool V-3	Pool Braeburn	Total
Interest income, net	4,411	34,564	16,167	980,299	1,333,656	2,369,098
Expenses	**Pool ATP IV**	**Pool V-1**	**Pool V-2**	**Pool V-3**	**Pool Braeburn**	**Total**
Management fee	74,999	450,000	1,350,000	900,001	225,000	3,000,000
ATLS Fee	192,712	1,156,173	3,468,422	2,312,249	578,038	7,707,594
Professional fees	492,837	482,117	1,453,056	921,135	421,599	3,770,744
Office expenses	18,477	75,933	133,031	57,098	11,642	296,180
Employee costs	11,589	69,531	208,593	139,062	34,766	463,541
Other operating expenses	10,769	58,563	175,686	117,124	29,281	391,423
	801,897	2,297,595	6,792,665	4,453,722	1,300,784	15,646,662
P&L at ATLS / ATLS UK / ATP R&D	87,524	525,143	1,575,429	1,050,286	262,571	3,500,952
	(709,962)	(1,737,887)	(5,201,070)	(2,423,137)	295,444	(9,776,612)

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Portfolio Summary

	Initial Investment Date	Ownership %	Remaining Budget (Approved)	Invested to Date*	Sale Proceeds Realized	Realized Gain/(Loss)	FV Investments & Earnouts On-hand **	Unrealized Gain/(Loss)	Notes
Current Investments - Pool ATP V-1									
Initial	2020	83.89%	21.73	53.27	-	-	0.01	(53.26)	
Nine Square	2020	87.42%	-	50.00	-	-	0.01	(49.99)	
Total - Pool ATP V-1			21.73	103.27	-	-	0.02	(103.25)	
Current Investments - Pool ATP V-2									
Aulos	2020	70.00%	-	60.00	-	-	50.00	(10.00)	
Nereid	2020	83.47%	-	50.00	-	-	0.01	(49.99)	-
Apertor	2020	87.15%	21.00	29.00	-	-	0.01	(28.99)	-
Replicate	2021	84.49%	13.00	59.25	-	-	59.25	-	
Evercrisp	2021	83.39%	49.00	26.00	-	-	0.01	(25.99)	-
Red Queen Therapeutics	2021	90.51%	22.60	27.60	-	-	31.18	3.58	
Deep Apple	2021	82.48%	9.00	43.00	-	-	41.88	(1.12)	
Marlinspike	2022	88.66%	36.68	27.73	-	-	0.01	(27.72)	-
Aethon	2022	77.45%	8.00	17.00	-	-	17.14	0.14	
Total - Pool ATP V-2			159.28	339.58	-	-	199.49	(140.09)	
Current Investments - Pool ATP V-3									
Marengo	2015	84.70%	30.00	56.02	-	-	102.34	46.32	Includes $39.02m transferred from Pool IV
Gala	2015	85.00%	-	-	-	-	-	-	Includes $40.81m transferred from Pool IV
Galvanize	2015	65.13%	0.10	127.04	-	-	65.71	(61.33)	Includes $84.14m transferred from Pool IV
Galaxy	2020	85.00%	-	-	-	-	-	-	Includes $40.81m transferred from Pool IV
Galary	2020	85.00%	-	-	-	-	-	-	Includes $40.81m transferred from Pool IV
Ascidian	2020	84.87%	6.00	89.57	-	-	97.14	7.57	Includes $25.57m transferred from Pool IV
Total - Pool ATP V-3			36.09	272.63	-	-	265.19	(7.44)	
Current Investments - Pool ATP Braeburn									
Braeburn	2021	83.10%	-	402.96	722.01	543.41	2,594.81	2,191.85	Includes $203.67m transferred from Pool IV
Total - ATP Pool Braeburn			-	402.96	722.01	543.41	2,594.81	2,191.85	
Investments Sold/Distributed									
Tendyne	2014		-	22.83	76.81	53.99	20.03	20.03	
Late Stage/Public Ventu	2014		-	35.72	50.93	15.21	-		
Services	2014		-	77.87	86.93	9.07	-		
Syntimmune	2014		-	71.33	301.50	230.17	361.05	361.05	
Tusker	2020		-	54.14	105.48	51.34	9.54	9.54	
VytronUS	2020		-	48.51	7.50	(41.00)	-	-	
Corvidia	2016		-	27.18	154.35	127.17	84.25	84.25	
Chinook	2019		-	17.21	61.14	43.93	-	-	
Akero	2016		-	45.23	158.93	113.70	-	-	
Stoke	2014		-	105.48	576.81	471.33	-	-	
Gala (Pool IV)	2015		-	54.74	58.37	3.63	-	-	
Galvanize (Pool IV)	2020		-	16.24	15.42	(0.83)	-	-	
Galaxy (Pool IV)	2020		-	18.18	7.71	(10.48)	-	-	
Galary (Pool IV)	2020		-	2.65	2.65	0.00	-	-	
Intergalactic (Pool IV)	2020		-	44.90	40.81	(4.09)	-	-	Includes $9.86m allocated from Limelight
Ascidian (Pool IV)	2020		-	33.14	25.57	(7.57)	-	-	Includes $13.14m allocated from Limelight
Marengo (Pool IV)	2015		-	85.34	39.02	(46.32)	-	-	
Braeburn (Pool IV)	2012		-	445.78	203.67	(242.12)	-	-	
Total			-	1,206.46	1,973.59	767.13	474.87	474.87	
Investments written-off									
Rox	2016		-	18.69	0.20	(18.49)	-	-	
Gala BVBA	2013		-	-	-	-	-	-	
Cure Forward	2014		-	19.74	-	(19.74)	-	-	
Core-health	2014		-	0.60	-	(0.60)	-	-	
Limelight	2016		-	5.29	0.50	(4.78)	-	-	
Galavant	2020		-	-	-	-	-	-	
Kynos	2020		-	1.02	0.31	(0.71)	-	-	
Intergalactic	2020		-	101.71	-	(101.71)	-	-	Includes $40.81m transferred from Pool IV
Adendra	2021		-	3.05	-	(3.05)	-	-	
Total				150.10	1.01	(149.09)	-	-	

* *For investments held in Pool V-3 and Pool Braeburn, Invested to Date represents the amount transferred into the pool in accordance with Amendment 20 as well as additional capital invested after the amendment 20 transfers.*

** *The current value of earnouts are based on current fair market value of the future expected cash flows.*

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Pool ATP IV

Corvidia Therapeutics

Investment to date:	$27.18M	Initial Investment Date:	January 2016
Realized Proceeds:	$154.35M	Investment Stage:	Exited with Earnout
Ownership %:	21.21%*		
Gross Realized IRR:	77.30%	Gross Realized MOIC:	5.68x

Acquirer: Novo Nordisk

Milestone	Total	ATP share	Payment timing
Upfront payment	$725.00M	$139.14M	07-30-20
Escrow payment	$72.50M	$15.21M	11-29-21
Shareholder representative expense account distribution	$0.50M	$0.11M	Impossible to project
Acceptance of FDA submission (US)	$35.00M	$7.42M	1-2H26
Acceptance of EMA submission (EU)	$20.00M	$4.24M	2H26
Acceptance of PMDA submission (Japan)	$10.00M	$2.12M	2H26
US FDA approval	$300.00M	$63.62M	2H27
EU EMA approval	$40.00M	$8.48M	2H27
Japan approval and first sale	$75.00M	$15.90M	2H27-1H28
First reimbursed sales in EU	$85.00M	$18.02M	1H28
FDA approval of 2nd indication	$50.00M	$10.60M	Impossible to project
1st calendar year sales: >$1.5B	$125.00M	$26.50M	2H31
1st calendar year sales: >$2.5B	$125.00M	$26.50M	2H33
1st calendar year sales: >$3.0B	$125.00M	$26.50M	2H35
1st calendar year sales: >$3.5B	$125.00M	$31.81M	2H37
1st calendar year sales: >$4.5B	$125.00M	$47.71M	2H39
TOTAL (if all milestones reached)	$2.16B	$304.94M	

* Indicates ownership % at the time of exit.

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Syntimmune

Investment to date:	$71.33M	Initial Investment Date:	October 2014
Realized Proceeds:	$301.50M	Investment Stage:	Exited with Earnout
Ownership %:	73.39%*		
Gross Realized IRR:	110.20%	Gross Realized MOIC:	4.23x

Acquirer: Alexion (subsequently acquired by AstraZeneca)

Going forward, the valuation of Syntimmune will be based ATP's percentage of the DL court's award, incorporating an estimate for interest based upon the estimated payment date, assuming appeal, using the return waterfall, the entire amount discounted back for time and risk of appeal.

Milestone	Total	ATP share	Payment timing
Upfront payment	$360.00M	$277.40M	11-02-18
First escrow proceeds	$20.00M	$9.55M	11-26-19
Second escrow proceeds	$20.00M	$13.66M	05-18-20
Litigation awards: Judgement, Interest & Expenses	$495.68M	$371.93M	1H 27
TOTAL (if all milestones reached)	$895.68M	$672.54M	

Tendyne

Investment to date:	$22.83M	Initial Investment Date:	March 2014
Realized Proceeds:	$76.81M	Investment Stage:	Exited with Earnout
Ownership %:	30.66%*		
Gross Realized IRR:	129.65%	Gross Realized MOIC:	3.37x

Acquirer: Abbott

Milestone	Total	ATP share	Payment timing
Upfront payment	$224.50M	$68.85M	09-11-15
Escrow & expense fund	$25.50M	$6.95M	09-28-16
Escrow & expense fund		$1.01M	05-25-17
CE Mark earnout	$50.00M	$0.00	
PMA earnout	$65.00M	$20.0M	2H25
TOTAL	$385.00M	$96.8M	

* Indicates ownership % at the time of exit.

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Abbott informed the former Tendyne stockholders that the PMA earnout milestone was met on or before June 30, 2025, entitling the former Tendyne stockholders to receive a milestone payment in the amount of $65M.

Tusker Medical

Investment to date:	$54.14M	Initial Investment Date:	February 2016
Realized Proceeds:	$105.48M	Investment Stage:	Exited with Earnout
Ownership %:	83.39%*		
Gross Realized IRR:	29.82%	Gross Realized MOIC:	1.9x

Acquirer: Smith+Nephew

Milestone	**Total**	**ATP share**	**Payment timing**
Convertible note proceeds	$18.16M	$18.16M	02-17-20
Upfront payment	$80.59M	$65.44M	02-17-20
Holdback payment	$6.00M	$5.00M	10-20 & 4-21
Expense fund payment	$0.25M	$0.21M	TBD
Uninterrupted sales milestone	$5.00M	$4.17M	12-01-20
Reimbursement milestone payment #1	$5.00M	$4.17M	03-03-20
Reimbursement milestone payment #2	$5.00M	$4.17M	09-06-22
Reimbursement milestone payment #3	$5.00M	$4.17M	11-2-23
Revenue milestone	$15.00M	$11.89M	2H25
TOTAL (if all milestones reached)	$140.00M	$117.38M	

Pool ATP V-1

Initial Therapeutics

Investment to date:	$53.27M	Initial Investment Date:	July 2020
Ownership:	83.89%	Investment Stage:	Disputed/Series A

Company snapshot: Initial Therapeutics discovers small molecule therapeutics designed to intervene in disease processes by modulating translation of pathogenic proteins in the ribosome.

Owing to the ongoing dispute over funding, which is the subject of the Litigation, Initial reduced its headcount from 18 employees to 4, and consolidated its efforts on the ARV

* Indicates ownership % at the time of exit.

program, terminating efforts in c-Myc protein translation inhibition. In the future, subject to the resolution of the dispute over funding, the ARV program should become highly competitive given that dual knockdown of ARV and ARV7 is not available in any current treatment paradigm, and the mechanism if born out in the clinic could become a major tool in the armamentarium to combat resistant prostate cancer.

Nine Square Therapeutics

Investment to date:	$50.00M	Initial Investment Date:	June 2020
Ownership:	87.42%	Investment Stage:	Disputed/Pre Series B

Company snapshot: Nine Square Therapeutics discovers novel small molecule therapeutics for life-threatening neurodegenerative diseases including Parkinson's disease and ALS.

Owing to budget approval disputes arising in the Litigation, Nine Square substantially reduced its headcount to a small core team, freezing its work on a highly potent TRPML1 activator for potential treatment of multiple system atrophy (MSA) with expansion opportunities to Lewy body dementia and Parkinson's disease. The compound was being profiled in safety studies to inform development candidate nomination. Pharmacokinetic attributes for BID/QD dosing in humans have already been demonstrated consistent with target product profiles, and high tolerability was shown in life safety studies. Nine Square's TRPML1 activators have shown target engagement for key biomarkers in brain (TFEB, SPP1, PSAP) and plasma (SPP1, PSAP), thus confirming on-target mechanism. The compound demonstrated superiority over other advanced leads across the industry (Casma, Libra) in pharmacological and pharmaceutical properties.

A further consequence of the Litigation and resulting lack of funding has been that work on the company's advanced lead in the Parkin program has been frozen. The compound showed excellent brain and plasma exposure after oral dosing in rodents. Furthermore, the compound showed a sustained and dose responsive increase in on-mechanism brain biomarkers of Parkinson's disease. Parkin has been viewed as a cornerstone target in Parkinson's disease throughout neuroscience, and Nine Square's advanced lead program is viewed as an industry and scientific first.

Nine Square is engaged in BD discussions, under CDA with Ipsen and Lundbeck.

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Pool ATP V-2

Aethon Therapeutics

Investment to date:	$17.00M	Initial Investment Date:	November 2022
Ownership:	77.45%	Investment Stage:	Budget Disputed/Series A

Company snapshot: Aethon Therapeutics is pursuing a new approach in immuno-oncology by creating covalent drug-modified neoantigens targeting key oncogenic mutations.

Owing to the ongoing dispute over funding, which is the subject of the Litigation, Aethon has focused on the G12C and G12D programs in its collaboration with Revolution Medicines. The company has been able to use some marginal funds from the RevMed deal to progress wholly owned programs: 1. Pan-RAS inhibitors that kill only cancer cells expressing amplified RAS and not those with wild type levels of RAS expression; 2. A best-in-class TP53Y200C binder, with DC nomination expected in 4Q25.

Apertor Pharmaceuticals

Investment to date:	$29.0M	Initial Investment Date:	November 2020
Ownership:	87.15%	Investment Stage:	Disputed/ Series A

Company snapshot: Apertor Pharmaceuticals is using synthetic biology to discover new drugs that reprogram human immunity to treat diseases.

Owing to the ongoing dispute over funding, which is the subject of the Litigation, Apertor reduced its headcount to four people. The company nevertheless managed to deliver a development candidate in addition to its existing DC, AP-414, in further support of the therapeutically valuable selective mTORC1/4E-BP1 concept. The new DC, AP-457, demonstrates increased stability and potency over its competitor, Revolution Medicines' RMC-5552. In preclinical studies, the compound shows complete stability in plasma over a 24-hour period and superior efficacy in vivo over RMC-5552, with tumor regression as a monotherapy in MCF7 cell cancers. Furthermore, in combination with the KRAS inhibitor sotorasib, AP-414 and AP-457 both deliver tumor regression in preclinical non-small cell lung carcinoma studies.

Beyond the 4E-BP1 program, Apertor has deployed its "plug-and-play" modality to deliver CRAF interceptors that disrupt mutant KRAS-driven cell growth, offering the potential for efficacy in multiple cancers. AP-458 and AP-460 are the current leads in this program, now at lead optimization stage, with a DC that would have been likely

before year end. Presently, work on all programs has been frozen owing to the ongoing dispute over funding.

Aulos Bioscience

Investment to date:	$60.00M	Initial Investment Date:	October 2020
Ownership:	70.00%	Investment Stage:	Disputed/Bridge to Series B

Company snapshot: Aulos Bioscience is developing AU-007, a highly differentiated IL-2 human antibody therapeutic with best-in-class potential in diverse solid tumors.

In the ongoing phase 2 clinical trial of AU-007, four cohorts are now open: (1) melanoma and renal cell carcinoma, receiving AU-007 with a single low dose of Proleukin IL-2 as a second- or third-line treatment; (2) PD-L1+ non-small cell lung cancer that progressed on prior first-line checkpoint inhibitor therapy, receiving AU-007 with a single low dose of Proleukin as a second-line treatment; (3) same as cohort (2), but with the addition of Bavencio (avelumab anti-PD-L1); and (4) melanoma, receiving AU-007, Opdivo (nivolumab, an anti-PD-1), and Proleukin as a second-line treatment.

During the quarter, a patient from Phase 1 receiving treatment for head & neck cancer who received 5 prior types of treatment for his disease achieved a confirmed complete response (100% elimination of tumors seen on two successive CT scans, 8 weeks apart). He has remained on AU-007 for over 22 months. Two other patients have had durable confirmed complete responses in their target tumor lesions and remain on treatment, one with melanoma (from Phase 2, still on treatment for 18 months) and one with bladder cancer (from Phase 1, complete response as measured by PET scan and circulating tumor DNA measurements, still on treatment for 26 months). Two of five patients with metastatic PD-L1+ non-small cell lung cancer treated with AU-007 with Proleukin and avelumab achieved tumor reductions of -45% and -10% after progressing on first-line checkpoint inhibitor regimens. One of three patients with metastatic PD-L1+ non-small cell lung cancer treated with AU-007 with Proleukin (but no avelumab) achieved a tumor reduction of -6% and continues on therapy. Several new patients receiving AU-007 with Proleukin (without nivolumab) for melanoma achieved tumor shrinkages during the quarter (-6%, -5%, and -2%) and continue on therapy. Tumor reduction often increases with duration of therapy.

Aulos presented Phase 2 data at the American Association of Cancer Research (AACR) Annual Meeting in Chicago on April 29. The poster presented promising results for AU-007 in the second-line treatment of melanoma and was well attended.

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In June, Aulos convened a Melanoma Advisory Board of three key opinion leader medical oncologists. Based on input from this Advisory Board, the company plans to amend the inclusion criteria for the ongoing Phase 2 cohorts in melanoma to further demonstrate the unique efficacy that AU-007 with Proleukin, with or without nivolumab, offers to patients previously treated with checkpoint inhibitors. The Advisory Board members all had favorable opinions of the mechanism of action of AU-007 and were impressed with the data generated to date in patients with melanoma who had progressed on front-line checkpoint inhibitors.

During the quarter, Aulos received an approved international non-proprietary name (generic name) for AU-007: imneskibart.

Owing to budget approval disputes arising in the Litigation, the company structured an interim financing round led by the family office of its CEO, an experienced oncology pharmaceutical and biotech executive. ATP did not participate. In light of the reduced available funding, and despite the potential of the program as revealed in the clinical trial results to date, the company has had to curtail the proposed plan to develop AU007. This will cause delay to future studies and, in the view of the GP, will therefore negatively impact the value of the company.

Deep Apple Therapeutics

Investment to date:	$43.00M	Initial Investment Date:	December 2021
Ownership:	82.48%	Investment Stage:	Disputed/Series A

Company snapshot: Deep Apple Therapeutics is accelerating drug discovery with a platform built upon advanced computational modeling and large-scale compound docking, cryo-EM based structural biology, and deep learning models for the exploration of a vast virtual chemical space and the elucidation of protein dynamics and motion.

In June, Deep Apple announced a major collaboration with Novo Nordisk for a non-incretin genetically validated GPCR target for obesity. The overall collaboration is valued at $812 M, including a $32.5 million upfront payment, research funding, and multiple near-term milestone payments.

Progress in the Deep Apple portfolio has been significant. DAT 4774, the MRGPRX2 clinical candidate, is advancing to regulatory toxicology studies with IND submission anticipated for 1Q26. The company is currently at term sheet negotiations for partnering the MRGPRX2 project with a major European dermatology company. DAT-6464 has been identified as a potential GIPR antagonist clinical candidate and is undergoing evaluation in vivo for weight loss. DAT-8365, the current lead in the MC4R

project, has the desired pharmacological and pharmacokinetic attributes for advancement to in vivo efficacy and safety studies in 3Q.

Owing to the ongoing budget approval disputes arising in the Litigation, the company has for the moment chosen not to embark on clinical development programs and instead to use the cash from Novo to fund further preclinical work that it hopes will lead to the closing of additional business development deals. In the view of the GP, this will negatively impact the value of the company, confining it to being a research only enterprise, despite its potential to bring projects to valuable clinical PoCs.

Evercrisp Biosciences

Investment to date:	$26.00M	Initial Investment Date:	August 2021
Ownership:	83.37%	Investment Stage:	Disputed/Series A

Company snapshot: Evercrisp Biosciences, founded with Noble Laureate Jennifer Doudna, discoverer of gene editing, applies advanced computational sciences to discover and develop miniproteins with self-delivery properties designed to access brain, kidney, muscle, and other tissues that have been previously unreachable by genetic medicines.

Owing to the ongoing dispute over funding, which is the subject of the Litigation, Evercrisp substantially reduced its headcount from 19 employees to 4. Evercrisp had been advancing its portfolio with the design of novel mini proteins for kidney targeting and the delivery of muscle therapeutics with SiRNA cargos for DMD. Having identified a nephrin miniprotein with >6x improvement in binding compared to the previous best binder, Evercrisp implemented a method to bias its library towards sequences with fewer liabilities and higher human sequence content. With nephrin miniproteins in hand, Evercrisp screened and selected lead ApoL1 siRNA sequences for optimal activity and selectivity. The constructs will need to be evaluated in vivo to enable clinical candidate selection, when the funding issues arising in the Litigation are resolved. In addition, Evercrisp had been working on a revision of its technology to enable subcutaneous delivery of gene editors and other nucleic acid therapies, with biodistribution obtained in a tissue-specific manner; however work on this high potential program, along with other work at the company, including novel guide chemistry modifications that enhance serum stability on which the company had filed patents, has stopped due to the funding issues arising in the Litigation.

In May, Evercrisp delivered two presentations at the American Society of Gene & Cell Therapy (ASGCT) annual meeting. The company is under CDA with potential strategic partners.

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Marlinspike Therapeutics

Investment to date:	$27.73M	Initial Investment Date:	February 2022
Ownership:	88.66%	Investment Stage:	Disputed/Series A

Company snapshot: Marlinspike Therapeutics established a platform to discover and develop small molecule inhibitors for RNA helicases, critical components of the alternative splicing and RNA processing machinery. These pathways are dysregulated in many cancers and represent a new target class.

Owing to the ongoing dispute over funding, which is the subject of the Litigation, Marlinspike persists with no employees. All work that it is possible to undertake under such cash-limited circumstances is being carried out at ATP Labs. Even in this situation, the company's high-potential SF3B1 covalent inhibitor project continues. Single-digit nanomolar inhibitors that kill c-Myc dependent cancer have been selectively identified; only c-Myc dependent cells that contain wild type SF3B1 were killed and those where the targeted cysteine is replaced by serine, nullifying covalent inhibition, were fully spared. Blood stability of the molecules was optimized. Direct target and mechanism engagement has been established in vivo and in vitro, and oral pharmacokinetics are acceptable. In short, this compound possesses in vitro properties that are hallmarks of a DC; however, it will not be progressed due to the funding issues rising in the Litigation.

Nereid Therapeutics

Investment to date:	$50.00M	Initial Investment Date:	October 2020
Ownership:	83.47%	Investment Stage:	Disputed/Pre-Series B

Company snapshot: Nereid Therapeutics discovers new disease treatments by applying pioneering research and technologies in biomolecular condensates.

Owing to disputes regarding budgets that have arisen in the Litigation, Nereid executed a reduction in force from 14 employees to 4. Nereid has been engaged in business development discussions for all its programs:

1. NDTX-615, a prodrug of the active compound NDTX-9065, which targets CKAP5, a high-value oncology target with potential to be efficacious for

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numerous cancers including colorectal, bladder, and lung, based upon readouts from IND-enabling studies.

2. NER-0120682, the Myc program, which reached development candidate stage ahead of schedule, has confirmed on-target activity via numerous biophysical methods, and also demonstrates protein degradation using PROTAC derivatives of current leads. These two findings represent industry first and best achievements. Efficacy in triple negative breast cancer has been demonstrated preclinically, showing superiority over standard of care agents.

3. The TDP43 program, at lead optimization stage, with compounds demonstrating reduction in neurofilament light chain (NfL) in mice, a registrable end point for ALS and a high confidence biomarker for neurodegenerative disorders.

Red Queen Therapeutics

Investment to date:	$27.60M	Initial Investment Date:	October 2021
Ownership:	90.51%	Investment Stage:	Disputed/Series A

Company snapshot: Red Queen Therapeutics is pursuing a proprietary antiviral technology that has broad applicability against families of envelope viruses, including all coronaviruses, influenza, RSV, and others. The RQ technology is distinguished by activity against all known resistant variants in these virus families as well emerging pathologic variants. The RQ technology provides off-the-shelf, immediate treatment of a broad spectrum of viral infections with a low to negligible risk of adverse events.

Red Queen delivered a stapled peptide therapeutic with development candidate potency against all Flu A and Flu B viruses tested. This assessment was externally validated by BARDA, who had contracted the company to discover this peptide, awarding Red Queen a $250,000 milestone payment. The in vivo work required for DC nomination has not been undertaken due to the funding issues arising from the Litigation.

Red Queen has also identified a second therapeutic that achieved development candidate potency against RSV, PIV , MPV (all common respiratory viruses) and Nipah virus, a highly virulent virus that kills 40-75% of the people it infects. The in vivo studies required for DC nomination will also not be undertaken due to the funding issues arising in the Litigation.

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Replicate Bioscience

Investment to date:	$59.25M	Initial Investment Date:	February 2021
Ownership:	84.49%	Investment Stage:	Disputed/Series A

Company snapshot: Replicate Bioscience is creating a best-in-class RNA medicines company using its proprietary, synthetic self-replicating RNA platform technology, with initial areas of focus being infectious disease and treatment of autoimmune and inflammatory disorders.

Replicate is advancing discussions for three strategic partnerships: 1. A collaboration with Novo Nordisk to discover and develop next generation srRNA therapeutics for cardiometabolic diseases, which is on track to close in 3Q; 2. A LATAM partnership with Instituto Butantan for the continued development of Replicate's prophylactic rabies vaccine candidate, RBI-4000, also on target to close in 3Q. Butantan has stated its intention to sign a term sheet for a discovery stage option deal for additional infectious disease targets in conjunction with the RBI-4000 definitive agreement; 3. A Gates Foundation fully funded HIV-vaccine program, subject to a humanitarian license only, expected to close in 2H25.

In Replicate's internal pipeline, all work related to the highly valuable EBV vaccine candidate, RBI-5000, with potential billion-dollar acquisition value at Phase 1, has been paused due to disputes regarding budgets that have arisen in the Litigation, which, in the view of the GP, this will have a negative impact on the value of the company.

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Pool ATP V-3

Ascidian Therapeutics

Investment to date:	$89.57M	Initial Investment Date:	June 2021
Ownership:	84.87%	Investment Stage:	Disputed/Series A

Company snapshot: Ascidian Therapeutics is developing exon-editing RNA therapeutics to target the underlying causes of disease and restore normal protein function.

Owing to disputes regarding budgets that have arisen in the Litigation, Ascidian executed a 15% reduction in force and triaged its research portfolio to extend runway by two quarters (to mid-2026, dependent on revenues from the Roche partnership).

In the quarter, Ascidian dosed the first patient in the mid-dose cohort of the STELLAR trial for ACDN-01 in Stargardt disease, after unanimous DSMB approval to initiate the mid dose. Sufficient patients to fill the mid-dose cohort have been screened and scheduled. A further consequence of the Litigation and the resulting lack of funding is that the pediatric cohort will not presently be initiated nor will adult cohorts beyond the mid-dose cohort, reducing the value of the Stargardt's program and its probability of success. The internal COL4A5 program for Alport's Syndrome was prioritized over the MSH3+DM1 program for DM1, and MSH3 for Huntington's disease. The COL4A5 program continues to advance towards a development candidate.

Workplans on the four targets in the Roche collaboration are proceeding per plan. Collaboration discussions are underway with Eli Lilly and Regeneron.

During the quarter Murray Abramson (former Merck, Biogen, Tempus) joined as Chief Development Officer.

Galvanize Therapeutics

Investment to date:	$127.04M	Initial Investment Date:	June 2021
Ownership:	23.18%	Investment Stage:	Active/Series C

Company snapshot: Galvanize Therapeutics is developing and commercializing its Pulsed Electric Field (PEF) energy technology for chronic bronchitis (RheOx system) oncology (Aliya system).

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Galvanize closed 2Q with $6.0 million in Aliya sales, falling below its target of $6.5 million due to the transitioning the sales model (from letting hospitals use the Aliya system payment-free for 6 months to requiring them to buy the equipment up front for $250,000). The company expects that with the new reimbursement code being fully implemented in 3Q25, the company should achieve its revenue plan.

During the quarter the company was in term sheet discussions regarding a Series C financing in the amount of $100 million to be led by Sofinnova Partners, with what was emerging as an oversubscribed book of major institutional investors.

Marengo Therapeutics

Investment to date:	$56.02M	Initial Investment Date:	June 2021
Ownership:	81.41%	Investment Stage:	Disputed/Series B

Company snapshot: Marengo Therapeutics is a multi-platform immuno-oncology company; its lead asset is a next generation TCR vβ T cell engager that stimulates a natural "superkiller" T cell subset with an effector memory phenotype.

Owing to disputes regarding budgets that have arisen in the Litigation, the company stopped work on early CMC, reduced certain costs related to the ongoing invikafusp clinical trial, and conducted a 35% reduction in force. The cuts should enable the company to operate into 2Q26; however, the prior invikafusp potential launch date of 1Q28 was sacrificed, and all other non-partner programs are frozen. Marengo remains largely supported by Ipsen, having earned an $8M milestone payment during the quarter.

The company conducted a Clinical Plenary Oral Session at the American Association for Cancer Research (AACR) annual meeting in April, where it provided an update on invikafusp showing an initial disease control rate of 67%, tumor regression rates of 44%, and objective response rates of 22% in PD-1 resistant tumors. The company further highlighted its monotherapy efficacy in all major colorectal cancer sub-types, an area of high unmet need, and announced that it received Fast Track Designation from the FDA for the treatment of patients with TMB-high colorectal cancer.

The first five breast patients were dosed with a combination of invikafusp and Trodelvy, Gilead's approved antibody-drug conjugate for metastatic breast cancer (HR+HER2-mBC and TNBC), which Gilead is providing free for the purpose. The combination represents a second major opportunity for Marengo for business development, and also for an independent monotherapy indication to emerge. However, the program will not likely be taken forward due to the disputes regarding budgets that have arisen in the Litigation and the resulting lack of funding.

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During the quarter, Everett Vokes, MD, Chair of the Department of Medicine, and Physician-in-Chief at the University of Chicago, joined Marengo's scientific advisory board.

Pool ATP Braeburn

Braeburn

Investment to date:	$402.96M	Initial Investment Date:	June 2021
Ownership:	83.10%	Investment Stage:	Active/Commercial

Company snapshot: Braeburn makes and markets BRIXADI, the best-in-class medicine for opioid use disorder (OUD).

For the 6 months ending June 30, 2025, Brixadi's net revenue was approximately $115.7 million, 1.5% above revised plan of $114.0 million. Brixadi performed well during the second quarter, with 61,212 units shipped. Growth was steady with no major single purchases influencing the results. Growth was achieved despite persistent funding challenges in the criminal justice channel.

During the quarter, the company hired two state corrections experts to secure funding and drive adoption in the criminal justice channel, completed the field force expansion, and launched a successful unbranded direct-to-patient campaign.

Braeburn ended the quarter with a cash balance of $97.4M.

EXHIBIT D

Message

From: Anna Batarina [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=D6E1F8B6409B4EA689A7531DF0BDDB37-ANNA]
Sent: 3/1/2025 7:28:10 PM
To: Yuri Bogdanov [yuri.bogdanov@rigmora.com]; Dmitry Chechkin [dchechkin@rigmora.com]
CC: Seth L. Harrison [slh1@appletreepartners.com]
Subject: Q4 2024 Digest
Attachments: 4Q24 ATP LSV Quarterly Digest vF.pdf; 4Q24 ATP LSV Quarterly Digest vF.docx

Dear Yuri and Dmitry,

Please see attached 4Q'24 ATP LSV Digest.

Please let us know in case you have questions.

Best regards,
Anna Batarina

Joint Exhibit
JX-1212
C.A. No. 2025-0607-KSJM

ATP Life Science Ventures, LP

Fourth Quarter 2024 Report

As of December 31, 2024

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Performance Summary

Fund Name	Vintage	Committed Capital [1]	Contributed Capital [5]	Realized Proceeds	Residual Value	Total Value	IRR Gross [2]	IRR Net [3]	KPI [4] DPI	KPI [4] RVPI	KPI [4] TVPI
Pool ATP IV	2012	$ 1,408.13	$ 1,383.34	$ 1,766.06	$ 369.13	$ 2,135.19	19.69%	12.66%	1.28x	0.27x	1.54x
		$ 1,408.13	$ 1,383.34	$ 1,766.06	$ 369.13	$ 2,135.19	19.69%	12.66%	1.28x	0.27x	1.54x

Fund Name	Vintage	Committed Capital [1]	Contributed Capital [5]	Realized Proceeds	Residual Value	Total Value	IRR Gross [2]	IRR Net [3]	KPI [4] DPI	KPI [4] RVPI	KPI [4] TVPI
Pool V-1	2019	$ 200.00	$ 130.64	$ 60.65	$ 99.78	$ 160.42	54.96%	30.60%	0.46x	0.76x	1.23x
Pool V-2	2020	800.00	370.68	0.31	348.02	348.33	3.84%	0.00%	0.00x	0.94x	0.94x
Pool V-3	2021	500.00	409.07	-	551.48	551.48	13.42%	10.90%	0.00x	1.35x	1.35x
Pool V-1 / V-2 / V-3		$ 1,500.00	$ 910.38	$ 60.96	$ 999.28	$ 1,060.23	12.47%	7.18%	0.07x	1.10x	1.16x

Fund Name	Vintage	Committed Capital [1]	Contributed Capital [5]	Realized Proceeds [6]	Residual Value	Total Value	IRR Gross [2]	IRR Net [3]	KPI [4] DPI	KPI [4] RVPI	KPI [4] TVPI
Pool ATP BB	2021	$ 411.45	$ 411.45	$ 667.86	$ 2,539.39	$ 3,207.25	103.35%	101.23%	1.62x	6.17x	7.79x
Pool ATP Braeburn		$ 411.45	$ 411.45	$ 667.86	$ 2,539.39	$ 3,207.25	103.35%	101.23%	1.62x	6.17x	7.79x

1) Represents the total Capital committed to the Pool for investments and fees and expenses.
2) Gross IRR includes the capital invested into portfolio companies and the proceeds received from the sale of portfolio companies plus the fair market value of the current portfolio.
3) Net IRR includes capital contributions made by the limited partners, distributions made to the limited partners plus the current value of the partners capital. The Net IRR does not include distributions made to ICU holders or carry distributions. The Net IRR includes the investment performance as well as all fees and expenses incurred by the Fund.
4) All KPI metrics are calculated using the net performance numbers. Net performance numbers include capital contributions made by limited partners, distributions made the limited partners plus the current value of the partners capital. The KPI metrics include the investment performance as well as all fees and expenses incurred by the Fund.
5) Contributed capital amounts include contributions for fees and expenses.
6) Realization amounts at ATP BB are estimated and are subject to change upon completion of year-end valuation analysis and review by auditors.

YTD as of 12/31/2024	Pool ATP IV	Pool V-1	Pool V-2	Pool V-3	Pool Braeburn	Total
Interest income, net	13,097	1,875	24,383	1,833,569	2,699,993	4,572,917
Expenses	**Pool ATP IV**	**Pool V-1**	**Pool V-2**	**Pool V-3**	**Pool Braeburn**	**Total**
Management fee	75,000	450,000	1,350,000	900,000	225,000	3,000,000
ATLS Fee	415,384	2,492,113	7,476,147	4,984,033	1,245,960	16,613,638
Professional fees	905,430	526,298	1,465,290	1,026,081	932,055	4,855,154
Office expenses	15,749	94,259	293,037	188,726	47,091	638,861
Employee costs	24,720	148,322	444,966	296,644	74,161	988,814
Other operating expenses	20,202	100,705	302,113	203,787	50,177	676,984
Tax expenses, net of refund	171	1,026	3,078	2,052	512	6,838
	1,456,657	3,812,723	11,334,631	7,601,323	2,574,956	26,780,288
P&L at ATLS / ATLS UK / ATP R&D	61,085	366,512	1,099,536	733,024	183,256	2,443,413
	(1,382,474)	(3,444,336)	(10,210,712)	(5,034,730)	308,293	(19,763,958)

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Portfolio Summary

	Initial Investment Date	Ownership %	Remaining Budget (Approved)	Invested to Date*	Sale Proceeds Realized	Realized Gain/(Loss)	FV Investments & Earnouts On-hand **	Unrealized Gain/(Loss)	Notes
Current Investments - Pool ATP V-1									
Initial	2020	85.51%	23.73	47.27	-	-	42.15	(5.13)	
Nine Square	2020	86.88%	5.60	44.40	-	-	51.82	7.42	
Total - Pool ATP V-1			29.33	91.67	-	-	93.96	2.29	
Current Investments - Pool ATP V-2									
Aulos	2020	70.00%	5.00	55.00	-	-	65.85	10.85	
Nereid	2020	82.69%	-	43.60	-	-	28.39	(15.21)	
Apertor	2020	88.49%	21.00	25.00	-	-	28.86	3.86	
Replicate	2021	82.03%	-	53.00	-	-	58.91	5.91	
Evercrisp	2021	84.70%	53.00	22.00	-	-	23.37	1.37	
Red Queen Therapeutics	2021	90.50%	24.60	26.60	-	-	31.18	4.58	
Deep Apple	2021	84.05%	21.00	31.00	-	-	41.88	10.88	
Marlinspike	2022	88.38%	38.28	26.73	-	-	26.72	(0.00)	
Aethon	2022	77.16%	8.00	17.00	-	-	17.14	0.14	
Total - Pool ATP V-2			170.88	299.93	-	-	322.29	22.37	
Current Investments - Pool ATP V-3									
Marengo	2015	84.70%	30.00	56.02	-	-	201.56	145.54	Includes $39.02m transferred from Pool IV
Galvanize	2015	64.31%	0.10	127.04	-	-	202.53	75.49	Includes $84.14m transferred from Pool IV
Ascidian	2020	84.87%	6.00	89.57	-	-	138.93	49.35	Includes $25.57m transferred from Pool IV
Total - Pool ATP V-3			36.09	272.63	-	-	543.02	270.39	
Current Investments - Pool ATP Braeburn* **									
Braeburn	2021	83.10%	-	402.96	722.01	543.41	2,538.63	2,135.68	Includes $203.67m transferred from Pool IV
Total - ATP Pool Braeburn			-	402.96	722.01	543.41	2,538.63	2,135.68	
Investments Sold/Distributed									
Tendyne	2014		-	22.83	76.81	53.99	15.36	15.36	
Late Stage/Public Venture	2014		-	35.72	50.93	15.21	-		
Services	2014		-	77.87	86.93	9.07	-		
Syntimmune	2014		-	71.33	301.50	230.17	251.14	251.14	
Tusker	2020		-	54.14	105.48	51.34	9.54	9.54	
VytronUS	2020		-	48.51	7.50	(41.00)	-	-	
Corvidia	2016		-	27.18	154.35	127.17	84.25	84.25	
Chinook	2019		-	17.21	61.14	43.93	-	-	
Akero	2016		-	45.23	158.93	113.70	-	-	
Stoke	2014		-	105.48	576.81	471.33	-	-	
Gala (Pool IV)	2015		-	54.74	58.37	3.63	-	-	
Galvanize (Pool IV)	2020		-	16.24	15.42	(0.83)	-	-	
Galaxy (Pool IV)	2020		-	18.18	7.71	(10.48)	-	-	
Galary (Pool IV)	2020		-	2.65	2.65	0.00	-	-	
Intergalactic (Pool IV)	2020		-	44.90	40.81	(4.09)	-	-	Includes $9.86m allocated from Limelight
Ascidian (Pool IV)	2020		-	33.14	25.57	(7.57)	-	-	Includes $13.14m allocated from Limelight
Marengo (Pool IV)	2015		-	85.34	39.02	(46.32)	-	-	
Braeburn (Pool IV)	2012		-	445.78	203.67	(242.12)	-	-	
Total			-	1,206.46	1,973.59	767.13	360.28	360.28	
Investments written-off									
Rox	2016		-	18.69	0.20	(18.49)	-	-	
Gala BVBA	2013		-	-	-	-	-	-	
Cure Forward	2014		-	19.74	-	(19.74)	-	-	
Core-health	2014		-	0.60	-	(0.60)	-	-	
Limelight	2016		-	5.29	0.50	(4.78)	-	-	
Galavant	2020		-	-	-	-	-	-	
Kynos	2020		-	1.02	0.31	(0.71)	-	-	
Intergalactic	2020		-	101.71	-	(101.71)	-	-	Includes $40.81m transferred from Pool IV
Adendra	2021		-	3.05	-	(3.05)	-	-	
Total				150.10	1.01	(149.09)	-	-	

** For investments held in Pool V-3 and Pool Braeburn, Invested to Date represents the amount transferred into the pool in accordance with Amendment 20 as well as additional capital invested after the amendment 20 transfers.*

** *The current value of earnouts are based on current fair market value of the future expected cash flows.*

****Realization amounts and respective gains/(losses) are estimated. These amounts are subject to change upon completion of year-end valuation analysis and review by auditors.*

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Pool ATP IV

Corvidia Therapeutics

Investment to date:	$27.18M	Initial Investment Date:	January 2016
Realized Proceeds:	$154.35M	Investment Stage:	Exited with Earnout
Ownership %:	21.21%*		
Gross Realized IRR:	77.30%	Gross Realized MOIC:	5.68x

Acquirer: Novo Nordisk

Milestone	Total	ATP share	Payment timing
Upfront payment	$725.00M	$139.14M	07-30-20
Escrow payment	$72.50M	$15.21M	11-29-21
Shareholder representative expense account distribution	$0.50M	$0.11M	Impossible to project
Acceptance of FDA submission (US)	$35.00M	$7.42M	1-2H26
Acceptance of EMA submission (EU)	$20.00M	$4.24M	2H26
Acceptance of PMDA submission (Japan)	$10.00M	$2.12M	2H26
US FDA approval	$300.00M	$63.62M	2H27
EU EMA approval	$40.00M	$8.48M	2H27
Japan approval and first sale	$75.00M	$15.90M	2H27-1H28
First reimbursed sales in EU	$85.00M	$18.02M	1H28
FDA approval of 2nd indication	$50.00M	$10.60M	Impossible to project
1st calendar year sales: >$1.5B	$125.00M	$26.50M	2H31
1st calendar year sales: >$2.5B	$125.00M	$26.50M	2H33
1st calendar year sales: >$3.0B	$125.00M	$26.50M	2H35
1st calendar year sales: >$3.5B	$125.00M	$31.81M	2H37
1st calendar year sales: >$4.5B	$125.00M	$47.71M	2H39
TOTAL (if all milestones reached)	$2.16B	$304.94M	

* Indicates ownership % at the time of exit.

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Syntimmune

Investment to date:	$71.33M	Initial Investment Date:	October 2014
Realized Proceeds:	$301.50M	Investment Stage:	Exited with Earnout
Ownership %:	73.39%*		
Gross Realized IRR:	110.20%	Gross Realized MOIC:	4.23x

Acquirer: Alexion (subsequently acquired by AstraZeneca)

Milestone	Total	ATP share	Payment timing
Upfront payment	$360.00M	$277.40M	11-02-18
First escrow proceeds	$20.00M	$9.55M	11-26-19
Second escrow proceeds	$20.00M	$13.66M	05-18-20
Completion of Phase 1 study of subcutaneous formulation	$130.00M	$94.08M	2H 24
First pivotal trial initiation	$120.00M	$86.84M	2H 24
Second pivotal trial initiation	$120.00M	$86.84M	2H 24
FDA approval for any first indication	$150.00M	$108.56M	Impossible to project
FDA approval for any second indication	$150.00M	$108.56M	" " "
EMA approval for any first indication	$25.00M	$18.08M	" " "
EMA approval for any second indication	$25.00M	$18.08M	" " "
Net sales >$1.00B	$80.00M	$57.89M	" " "
TOTAL (if all milestones reached)	$1.20B	$879.54M	

Tendyne

Investment to date:	$22.83M	Initial Investment Date:	March 2014
Realized Proceeds:	$76.81M	Investment Stage:	Exited with Earnout
Ownership %:	30.66%*		
Gross Realized IRR:	129.65%	Gross Realized MOIC:	3.37x

Acquirer: Abbott

Milestone	Total	ATP share	Payment timing
Upfront payment	$224.50M	$68.85M	09-11-15
Escrow & expense fund	$25.50M	$6.95M	09-28-16
Escrow & expense fund		$1.01M	05-25-17

* Indicates ownership % at the time of exit.

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CE Mark earnout	$50.00M	$0.00	
PMA earnout	$85.00M	$19.6M	1H25
TOTAL (if all milestones reached)	$385.00M	$102.4M	

If the second milestone is met under the Merger Agreement between Abbott and Tendyne, the former Tendyne stockholders are entitled to receive a milestone payment. The current milestone amount is $65M if the milestone is achieved on or before June 30, 2025. The amount then decreases by $20M by each twelve-month period achievement of the milestone is delayed.

Tusker Medical

Investment to date:	$54.14M	Initial Investment Date:	February 2016
Realized Proceeds:	$105.48M	Investment Stage:	Exited with Earnout
Ownership %:	83.39%*		
Gross Realized IRR:	29.82%	Gross Realized MOIC:	1.9x

Acquirer: Smith+Nephew

Milestone	Total	ATP share	Payment timing
Convertible note proceeds	$18.16M	$18.16M	02-17-20
Upfront payment	$80.59M	$65.44M	02-17-20
Holdback payment	$6.00M	$5.00M	10-20 & 4-21
Expense fund payment	$0.25M	$0.21M	TBD
Uninterrupted sales milestone	$5.00M	$4.17M	12-01-20
Reimbursement milestone payment #1	$5.00M	$4.17M	03-03-20
Reimbursement milestone payment #2	$5.00M	$4.17M	09-06-22
Reimbursement milestone payment #3	$5.00M	$4.17M	11-2-23
Revenue milestone	$15.00M	$11.89M	1H25
TOTAL (if all milestones reached)	$140.00M	$117.38M	

* Indicates ownership % at the time of exit.

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4Q 2024

Pool ATP V-1

Initial Therapeutics

Investment to date:	$47.27M	Initial Investment Date:	July 2020
Ownership:	85.51%	Investment Stage:	Active/Series A

Company snapshot: Initial Therapeutics discovers small molecule therapeutics designed to intervene in disease processes by modulating translation of pathogenic proteins in the ribosome.

Initial Therapeutics continues to advance its novel ribosome glue small molecule discovery efforts targeting high-value, hard-to-drug oncology targets. Significant progress has been made in its lead cMYC and Pan-AR programs over the last quarter. In the cMYC program, the company has discontinued activities on its lead compound, ITC-4819, to focus on alternatives with stronger on-target activity and superior selectivity. A critical breakthrough was achieved with the cryo-EM structure of the ribosome-cMYC nascent chain-ITC compound, enabling rational structural design for the program. Furthermore, Initial completed a 140,000-compound diversity screen in a key biochemical assay to identify expanded chemotypes for this effort. Multiple compounds with potency and selectivity superior to ITC-4819 are now being advanced into in vivo pharmacodynamic (PD) and efficacy studies. In the Pan-AR program, the company is advancing multiple compounds demonstrating <100nM potency in both biochemical and cellular assays, with observed in vivo PD effects. These compounds are effective against both the full-length androgen receptor protein and clinically relevant splice variants. Initial is preparing for in vivo efficacy studies and is pursuing cryo-EM structures to further accelerate medicinal chemistry efforts. Initial Therapeutics plans to operate both the cMYC and Pan-AR programs in parallel through 2Q25, at which point one program will be selected for advancement with the goal of declaring a Development Candidate by 4Q. The company will explore partnering discussions with pharmaceutical partners for the second program as appropriate (Merck, J&J).

Additionally, the company continues to generate and validate potent biochemical and cellular assay hits against other high-value oncology targets. With further meaningful validation of selectivity and tolerability within the cMYC and Pan-AR lead programs, Initial Therapeutics aims to capitalize on opportunities for discovery partnerships based on its STOPS platform.

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Nine Square Therapeutics

Investment to date:	$44.40M	Initial Investment Date:	June 2020
Ownership:	86.88%	Investment Stage:	Active/Series A

Company snapshot: Nine Square Therapeutics is discovering and developing novel small molecule therapeutics for life-threatening neurodegenerative diseases including Parkinson's disease (PD) and ALS.

In the quarter, Nine Square selected its TRPML1 agonist NST-0264520 as a development candidate with NST-0264607 as the most promising prodrug variant of it. The prodrug strategy is employed to deliver increased solubility and exposure. NST-0264520 is potent, orally bioavailable, demonstrates lower in vivo clearance in preclinical species with CNS penetrance, and is low-risk in in vitro safety panels. In biology, the Nine Square team demonstrated rescue of inflammatory gene signature in brains of FIG4 KO mice by the TRPML1 agonist and confirmed that activating TRPML1 reduced alpha-synuclein aggregation in human midbrain organoids. Currently Nine Square is focused on establishing efficacious concentration and human dose projection for NST-264520 to guide toxicology studies. In the Parkin program, the project has advanced through lead series optimization. High in vitro potency < 40 nM (NST-0264543) has been achieved, and in vivo movement of biomarkers (phosphor-ubiquitin) has been delivered. A related analog, NST-0217870, has shown in vivo a significant reduction in elevated brain VEGF and plasma Epo induced by systemic BAM15 administration in mice. In addition, Nine Square initiated work with isolated mitochondria from tissue for PD markers to increase assay sensitivity. The company is currently focused on potency and ADME optimization of compounds in vivo. Hit validation from DEL and internal cell-based screening is in progress to expand the portfolio.

In the imaging platform, Nine Square identified disease signature in Niemann-Pick patient fibroblasts and finished chemogenomics library screen and hit validation. The company has identified several intriguing cholesterol lowering targets and compounds that could become an accelerated new program. BD activity has increased with Roche, Lunbeck and Merck under CDA for TRPML1 and Parkin. Follow up meetings with Orbimed,Tencent and a16z took place in January.

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4Q 2024

Pool ATP V-2

Aethon Therapeutics

Investment to date:	$17.00M	Initial Investment Date:	November 2022
Ownership:	77.16%	Investment Stage:	Active/Series A

Company snapshot: Aethon Therapeutics is pursuing a new approach in immuno-oncology by creating covalent drug-modified neoantigens targeting key oncogenic mutations.

In the quarter, Aethon continued its work to discover novel bispecific antibodies under its collaboration with Revolution Medicines and now has binders from the Specifica screen for RMC6291 (G12C: HLAA3/A11 and A2 separately, common binders being sought now); screening is under way for RMC 9805. In the pan-RAS inhibitor program, immunopeptidomics experiments have identified two cancer specific neoantigen peptides presented on MHC-I. Finally, Aethon's best-in-class TP53Y200C binder continued to progress towards lead optimization.

On the BD front, Aethon has received a response from Amgen declining to partner on the sotorasib program but expressing openness to looking at new targets; Aethon leadership are planning to visit Amgen's site in Thousand Oaks in 1Q25. Additionally, Aethon has received new partnering interest from Ono and Taiho.

Apertor Pharmaceuticals

Investment to date:	$25.0M	Initial Investment Date:	November 2020
Ownership:	88.49%	Investment Stage:	Active/ Series A

Company snapshot: Apertor Pharmaceuticals is using synthetic biology to discover new drugs that reprogram human immunity to treat diseases.

The mTORC1/4E-BP1 project team will nominate AP-414 as a development candidate (DC) in 1Q25, having completed a series of tumor growth inhibition studies with strong corroboration of activity with biomarker response (ie 4E-BP1 phosphorylation). Initial rodent DMPK and tolerability studies support this nomination. Ongoing studies to solidify Phase 1/1B plans incorporate patient- and cell-derived xenograft models of lung adenocarcinoma (STK11 LOF/KRAS GOF) and squamous cell carcinoma (PIK3CA amplification), where PIK3 inhibitors have largely failed to manage either disease. Apertor continues to investigate the advantages of combining its DC with an FDA-

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approved HIF2 inhibitor (Belzutifan) in xenograft models of clear cell renal cell carcinoma. Apertor made progress towards achieving clinical-scale yields of AP414 with the delivery of the first lot of the anchor ligand f from a production-scale fermentation run by a qualified CRO partner. The company has also established a fast-cycling workflow for evaluating novel heterobifunctional (HBF) molecules designed to obstruct oncogenic driver function by recruiting FKBP proteins. Having successfully incorporated the new capabilities (i.e. quantitative proteomics, and in vitro and cellular assays for monitoring target activity) to prosecute CRAF and CDK2, Apertor continues to evaluate additional HBF/target pair opportunities. Apertor has engaged in BD discussions with Merck and preliminary interactions with venture groups including Orbimed and Ridgeback.

Aulos Bioscience

Investment to date:	$55.00M	Initial Investment Date:	October 2020
Ownership:	70.00%	Investment Stage:	Active/Series A

Company snapshot: Aulos Bioscience is developing AU-007, a highly differentiated IL-2 human antibody therapeutic with best-in-class potential in diverse solid tumors.

As of 4Q24 and January 2025, Aulos has treated 34 patients in Phase 2 dose expansion cohorts in its clinical trial of AU-007. Three Phase 2 cohorts are open: 1) melanoma and renal cell carcinoma, receiving AU-007 plus a single low dose of Proleukin as a second- or third-line treatment; 2) PD-L1-positive non-small cell lung cancer that progressed on prior first-line checkpoint inhibitor therapy, receiving AU-007 plus a single low dose of Proleukin as a second-line treatment; and 3) (opened in 4Q24) same as cohort 2, but with the addition of the anti-PD-L1 agent Bavencio (avelumab). AU-007 plus a single low dose of Proleukin continues to be safe and well tolerated. Based on data to date, the company is currently prioritizing melanoma and NSCLC and is not enrolling additional RCC patients at this time. Early data show 3 durable responses among 8 evaluable patients with melanoma (37.5% ORR) who had progressed on first-line checkpoint inhibitor therapy. Given the preclinical synergy seen with AU-007 and anti-PD-1, Aulos is also amending the protocol to include a cohort of up to 10 patients to assess AU-007 with a single low dose of Proleukin plus the anti-PD-1 agent Opdivo (nivolumab) as a second-line treatment for melanoma.

Regarding business development, seven potential partners are under confidentiality. Pfizer agrees that early Phase 2 data are promising and wants to see Phase 2 NSCLC data. Exelixis has made it clear that it is seeking Phase 2 assets. Regeneron is impressed by emerging data and has, in principle, agreed to provide free supply of its ant-PD-1 agent Libtayo for 1st-line use in NSCLC and 2nd-line use in RCC and head and neck cancer. The supply agreement is now under negotiation. On the financing front, many

firms are following Aulos closely under confidentiality as they evaluate taking part in a Series B round.

Also, during the 4th quarter, Aulos presented dose selection data at the EORTC-NCI-AACR Symposium on Molecular Targets and Cancer Therapeutics in Barcelona in October and Phase 1 and preliminary Phase 2 clinical data at the Society for Immunotherapy of Cancer (SITC) Annual Meeting in Houston in November.

Deep Apple Therapeutics

Investment to date:	$31.00M	Initial Investment Date:	December 2021
Ownership:	84.05%	Investment Stage:	Active/Series A

Company snapshot: Deep Apple Therapeutics is accelerating drug discovery with a platform built upon advanced computational modeling and large-scale compound docking, cryo-EM based structural biology, and deep learning models for the exploration of a vast virtual chemical space and the elucidation of protein dynamics and motion.

Deep Apple continues to advance its portfolio at an accelerated pace. In MRGPRX2, the development candidate 2097 has shown wide margins in rodent toxicology up to 300mg/kg dose (in life and clinical chemistry). In parallel, Deep Apple is advancing DAT-4775 and DAT-4825 in exploratory toxicology studies. The latter two candidate-quality compounds offer a faster entry into the clinic with >$1M savings based on CMC attributes. Clinical entry is still anticipated in 4Q 2025. In GIPR, DAT 4935 has emerged as a candidate-quality molecule. The compound meets selectivity and potency objectives, possesses attractive in vitro and in vivo ADME and PK properties, and will be profiled for weigh loss efficacy in vivo in 1Q25. Currently Deep Apple is exploring approaches to further optimize potency based on the proprietary cryo-EM structure. In the GPR75 orphan receptor project, the company has delivered significant potency gains via automated chemical library synthesis, guided by structure and computation. DAT-5040 is the current lead for the program. The compound is being evaluated in cryo-EM for a high-resolution structure. Deep Apple is projecting identification of an in vivo tool in 3Q25. In the MC4R agonist project, the company has delivered the first MC4R/Gq structure which guides the design of molecules with balanced signaling for Gs/Gq to deliver weight loss with no blood pressure effects. DAT 2368 is the current lead for the program, and Deep Apple aims to deliver a DC by the end of the year as a stretch goal. In the Triple G project, DAT 4554 represents the current lead which demonstrates full agonism for all three receptors. The compound will be profiled in vivo in 1Q25. The current focus is on optimizing pharmacokinetic attributes to enable delivery of a DC in 4Q25/1Q26.

Deep Apple has engaged in productive BD discussions with multiple partners. Amgen is finalizing alignment with governance on agreed-upon financial and collaboration terms

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for GIPR and GPR75. Deep Apple has completed third party diligence with Roche and is in round 2 of term sheet discussions. Merck has entered deep diligence ahead of term sheet discussion, anticipated by early February for GIPR. In addition, Deep Apple has entered discussions under CDA with both Novo and AZ for the totality of its metabolic portfolio. The company is still projecting a 1Q25 BD deal closing.

Evercrisp Biosciences

Investment to date:	$22.00M	Initial Investment Date:	August 2021
Ownership:	84.70%	Investment Stage:	Active/Series A

Company snapshot: Evercrisp Biosciences applies advanced computational sciences to discover and develop miniproteins with self-delivery properties designed to access brain, kidney, muscle, and other tissues that have been previously unreachable by genetic medicines.

Over the past quarter, Evercrisp achieved notable progress in receptor-targeted delivery and genetic medicine optimization. The transferrin receptor 1 miniprotein (TfR1mp) underwent computational redesign for human and predicted cyno receptor binding, with an oligonucleotide library prepared for Q1 screening. Computational redesign of IGF2Rmp was completed to enable cross-species receptor reactivity, with in vitro and CNS biodistribution studies planned. A library of miniproteins targeting the podocyte-specific receptor Nephrin demonstrated receptor-dependent uptake in initial cell assays. Upon completion of screening, hits will be tested in vivo for siRNA-mediated knockdown in podocytes. CNS editing studies with A22p-fused RNPs achieved 4% editing and widespread striatal editing, informing plans for IGF1Rmp-Cas9 fusions in Q1. However, EEP co-formulation with TfR1mp-Cas9 was deemed nonviable due to aggregation, redirecting focus to 17 pH-sensitive linkers for EEA conjugation, with selection in process. Serum stability enhancements included sgRNA modifications and a mass-spec assay to identify RNase cut sites, with polyethylene glycol methacrylate (PEGMA) conjugation under evaluation to shield RNPs and mitigate immunogenicity. In siRNA delivery, repeat dosing of TfR1mp-siMstn is ongoing, while initial dose-range findings for TfR1mp-siSsb showed >95% knockdown in muscle tissues and partial knockdown in the heart and diaphragm. A dose-response study of C16-conjugated siSod1 following ICV administration was also completed, setting the stage for comparative efficacy assessments of IGF1Rmp-siSod1 in Q1.

Marlinspike Therapeutics

Investment to date:	$26.73M	Initial Investment Date:	February 2022
Ownership:	88.38%	Investment Stage:	Active/Series A

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Company snapshot: Marlinspike Therapeutics is establishing a platform to discover and develop small molecule inhibitors for RNA helicases, critical components of the alternative splicing and RNA processing machinery. These pathways are dysregulated in many cancers and represent a new target class.

In the quarter, Marlinspike continued work to implement of a codeset to assess the target and MoA-specific RNA mis-splicing profile as PD assay; the project remains on track for a development candidate (DC) nomination in 2026. In the DHX38 program, Marlinspike now has potent, less than 200nM binders to SF3B1 in cell killing assays, with improving Pk properties. The company aims to obtain in-vivo proof of concept in 1Q25 with a goal of DC nomination in 4Q25.

ATP is planning to merge Marlinspike into Nereid Therapeutics, which is also based in the Boston area.

Nereid Therapeutics

Investment to date:	$43.60M	Initial Investment Date:	October 2020
Ownership:	82.69%	Investment Stage:	Active/ Series A

Company snapshot: Nereid Therapeutics is discovering new disease treatments by applying pioneering research and technologies in biomolecular condensates.

The BCL-9 program for colorectal cancer has selected a development candidate, NDTX-9065, that flatlines tumor growth in xenograft models. Rodent non-GLP toxicology has been initiated, and the compound is being scaled up for GLP toxicology studies. Additional medicinal chemistry work is ongoing to identify a potential backup molecule that addresses the issues of solubility and clearance of NDTX-9065, although those issues may also be addressed by ongoing efforts to optimize formulation of the current molecule. In addition, the mechanism of action of NDTX-9065 has been further elucidated as causing mislocalization of essential mitotic machinery including BCL-9 and β-catenin, resulting in mitotic catastrophe and cell death that selectively affects tumor cells. The Myc program for triple negative breast cancer (TNBC) is in lead optimization, with current compounds that directly bind to c-Myc with a Kd of ~50 nM and kill multiple TNBC, lung and ovarian cell lines. In vivo efficacy equivalent to targeted therapy against a driver mutation was demonstrated with an early orally bioavailable Myc compound, and additional xenograft studies with optimized compounds are planned for 1Q25. The program anticipates development candidate nomination and initiation of IND-enabling studies in 3Q25. Following demonstration of in vivo efficacy with a series that was discovered to have an undesirable safety profile, the TDP-43 program for ALS has nearly completed an HTS campaign against the N-terminal domain of TDP-43.

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Confirmed hits are being evaluated in functional assays. Provisional patent applications for the lead series in the two oncology programs were filed in November 2024. Nereid continues to engage with multiple strategics around a TDP-43 collaboration, and more recently with Merck on oncology.

Nereid formally launched a Series B raise in October, with initial meetings held with 20+ VC firms with the capability to lead the round, several of which progressed to second meetings with 3 VCs currently in the data room.

Red Queen Therapeutics

Investment to date:	$26.60M	Initial Investment Date:	October 2021
Ownership:	90.50%	Investment Stage:	Active/Series A

Company snapshot: Red Queen Therapeutics is pursuing a proprietary antiviral technology that has broad applicability against SARS-CoV-2 and other virulent diseases.

Work continues on Red Queen's pan-influenza BARDA contract, and the company expects to name a lead candidate in 1Q25 and then progress to early preclinical work. Peptide synthesis and analysis has been successfully transferred to ATPL. In the company's lead program, RQ-01 for SARS-CoV-2, Bachem successfully transferred production from Red Queen's former off-shore supplier. Red Queen is submitting a proposal under a recent BAA for further work on RQ-01 and expects a decision on that in 3Q25.

Replicate Bioscience

Investment to date:	$53.00M	Initial Investment Date:	February 2021
Ownership:	82.03%	Investment Stage:	Active/Series A

Company snapshot: Replicate Bioscience is creating a best-in-class RNA medicines company using its proprietary, synthetic self-replicating RNA platform technology, with initial areas of focus being drug resistance in oncology and treatment of autoimmune and inflammatory disorders.

In the quarter, Replicate prepared for the Phase 2 trial of its prophylactic rabies vaccine candidate RBI-4000, planned to commence in 1Q25 in conjunction with an anticipated LATAM partnership with either Butantan or Sinergium. The company completed IND-enabling studies for its prophylactic EBV vaccine candidate RBI-5000 and is manufacturing clinical lots. And the company advanced its combination respiratory vaccine against RSV/hMPV/PIV, which should reach development candidacy in 2025.

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On the partnership front, beyond the LATAM deal, Replicate is in advanced discussions with Novo Nordisk regarding a collaboration to discover and develop next-generation GLP-1R agents for obesity, with the deal on track to be executed in 1Q25.

In December 2024, RBI-4000 Phase 1 clinical data was published in the scientific journal *Nature Communications*.

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Pool ATP V-3

Ascidian Therapeutics

Investment to date:	$89.57M	Initial Investment Date:	June 2021
Ownership:	84.87%	Investment Stage:	Active/Series A

Company snapshot: Ascidian Therapeutics is developing exon-editing RNA therapeutics to target the underlying causes of disease and restore normal protein function.

In 4Q24, Ascidian activated 10 sites and dosed the first 2 patients in the STELLAR trial for ACDN-01. The low-dose cohort of the trial should be completed in 1Q25, and the mid-dose cohort is slated to begin in 2Q25. A Serious Adverse Event occurred in one of the low-dose patients, which the Data Safety Monitoring Board (DSMB) preliminarily assessed as likely due to bacterial endophthalmitis, a post-surgical infection. The patient recovered after standard-of-care treatment. Dosing of patients may resume in six weeks, pending final DSMB sign off. The FDA was informed by Day 15, and no clinical hold was issued.

Also in the quarter, the MSH3 program for DM1 and Huntington's disease advanced to lead optimization stage, and the MYH7 program for DM1 entered lead identification. The COL4A5 program for Alport's syndrome remains in lead identification.

On the partnership front, Roche workplans on all four targets are proceeding per plan with first collaboration milestones anticipated to be earned in 1Q25. Ascidian held 10 partnering meetings at the J.P. Morgan Healthcare Conference in January and is scheduling follow-up discussions across multiple therapeutic areas.

On the financing front, the company's discussions with Sanofi for a potential equity investment in Ascidian were halted by Sanofi, which offered the rationale that it is prioritizing investments in immunology to align with its corporate strategy.

Galvanize Therapeutics

Investment to date:	$127.04M	Initial Investment Date:	June 2021
Ownership:	64.31%	Investment Stage:	Active/Series C

Company snapshot: Galvanize Therapeutics develops disease-modifying therapies at the convergence of biology, engineering, and healthcare delivery. The company is developing and commercializing its platform Pulsed Electric Field (PEF) energy

technology for chronic bronchitis (RheOx system), oncology (Aliya system), and local delivery of gene therapy and other therapeutics.

Galvanize achieved $5.0 million in sales in 4Q24, a 25% increase over 3Q24. Total revenue for the year was $14.1 million. Fourth quarter revenue was driven by INUMI sales in 25 new accounts and reorders were over half the revenue. Procedure volumes continue to be strong as new accounts are launched; quarter over quarter procedures increased 37% and year over year by 139%.

The team submitted an application to Medicare for a New Technonology APC code in late November. Based on the historical precedents, we anticipate the code being issued in early April 2025 and the Medicare pricing should increase from $6,800 per procedure to $27,500, making the bronchoscopic Aliya treatment a very profitable one for the hospital. Galvanize's revenue per case will increase from $6,500 to $10,400, which not only raises the revenue forecasts, but there are also upsides in sales of generators and utilization per hospital. The current revenue model forecasts $28 million in revenue for 2025 and $58 million for 2026, but those numbers are likely to rise with the new reimbursement.

In December 2024, T Rowe Price invested another $5 million in the convertible notes that were originally closed in 1Q24. The company also closed a $20 million debt financing with Symbiotic Capital and is working towards a $75 million debt financing to provide cash through early 2027, which is anticipated to close by mid-2025.

Marengo Therapeutics

Investment to date:	$56.02M	Initial Investment Date:	June 2021
Ownership:	84.70%	Investment Stage:	Active/Series B

Company snapshot: Marengo Therapeutics is a multi-platform immuno-oncology company; its lead asset is a next generation TCR vβ T cell engager that stimulates a natural "superkiller" T cell subset with an effector memory phenotype.

The quarter saw continuing progress in the global phase 1/2 trial of Marengo's first-in-class treatment for advanced solid tumors, invikafusp alfa (STAR0602), with the first patient dosed in the Phase 2 portion of the trial and European centers added to accelerate recruitment, with initial activation of sites in France and Spain. In November, James Gulley of the U.S. National Cancer Institute presented encouraging Phase 1 clinical data for invikafusp alfa at the Society for Immunotherapy of Cancer (SITC) Annual Meeting in Houston, Texas. The following month, Marengo CEO Zhen Su presented an update from the Phase 1 clinical study of invikafusp alfa at the ESMO Immuno-Oncology Congress 2024 in Geneva, Switzerland.

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In early January 2025, the U.S. Food and Drug Administration (FDA) granted Fast Track designation to invikafusp alfa. Fast Track designation is designed to facilitate the development and expedite the review of therapies intended to treat serious or lifethreatening conditions with unmet medical needs. The Fast Track designation generated a great deal of interest in Marengo at the J.P. Morgan Healthcare Conference in January, where Marengo was a presenting company.

Pool ATP Braeburn

Braeburn

Investment to date:	$402.96M	Initial Investment Date:	June 2021
Ownership:	83.10%	Investment Stage:	Active/Commercial

Company snapshot: Braeburn makes and markets BRIXADI, the best-in-class medicine for opioid use disorder (OUD).

Brixadi Net Revenue: For the 12 months ending December 31, 2024, Brixadi's net revenue was approximately $142.8 million, which was 6% above our revised/increased guidance of $135 million.

Financing: Braeburn ended 2024 with a cash balance of $78.8M, comfortably above the requirement for the Hercules debt facility.

Launch Progress: Brixadi continued to perform well, maintaining strong growth at 6% over guidance in Q4 2024, following 11% over guidance in the previous quarter. While growth moderated slightly, we remained ahead of expectations despite external funding challenges. The primary factor influencing prescription trends was reduced funding within the criminal justice channel, following the removal of long-acting injectable buprenorphine from the Federal Bureau of Prisons formulary. This channel had contributed 25-30% of new patient growth in Q3 2024. Despite similar funding headwinds, Indivior reported stable net revenue for Sublocade in 2025.

Strategic Initiatives to Drive Growth:

- **Pursue Alternative Opportunities:** Given the uncertainty surrounding the FBOP decision in H1 2025, we are exploring alternative opportunities, including targeting county jails, state prisons, Indian Health Services, and Veteran Affairs Clinics. We have secured contracts with the New Jersey and Virginia

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Departments of Correction and expect more states to follow in Q2. To support our criminal justice customers, we will hire two employees to help facilities access available grant dollars for Brixadi programs.

- **Promote Brixadi with High Capacity Customers:** We countered misleading promotions of Sublocade with a field sales blitz targeting our top 15 highest capacity HCPs per territory. This helped us return to new patient growth, with nearly 4,000 HCPs prescribing Brixadi.
- **Engage Multistate Treatment Providers:** We signed a contract with Ideal Option in October 2024, initiating a multi-state launch in over 20 locations, resulting in over 700 new patient starts. We have a similar agreement with Crossroads, which will begin in March, and are pursuing other providers like Porch Light, Clean Slate, and Spero Health.

Key Near-Term Initiatives:

- **Field Force Expansion**: Increased by ~20%. Majority vacancies filled by April 2025.
- **DTP/DTC Campaign:** An unbranded DTP campaign will launch in early Q2, targeting patients on sublingual buprenorphine. A branded DTP campaign for Brixadi will launch in H2 2025.
- **160 mg Dose:** FDA application submitted.
- **Alcami Tech Transfer:** Expected by end of 2026.

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EXHIBIT E

IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

ATP III GP, LTD., in its capacity as General Partner of ATP Life Science Ventures, L.P.,	:	
Plaintiff,	:	
v	:	C. A. No. 2025-0607-KSJM
RIGMORA BIOTECH INVESTOR ONE LP and RIGMORA BIOTECH INVESTOR TWO LP,	:	
Defendants.	:	

- - -

Chancery Courtroom 12B
Leonard L. Williams Justice Center
500 North King Street
Wilmington, Delaware
Thursday, October 16, 2025
9:15 a.m.

- - -

BEFORE: HON. KATHALEEN St.J. McCORMICK, Chancellor

- - -

REDACTED TRIAL TRANSCRIPT - VOLUME I

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-and-
SHANNON ROSE SELDEN, ESQ.
WILLIAM H. TAFT V, ESQ.
NATASCHA BORN, ESQ.
CARL MICARELLI, ESQ.
SEBASTIAN DUTZ, ESQ.
ANDREW VAN DUYN, ESQ.
ZACHARY H. SALTZMAN, ESQ.
SARAH WOLF, ESQ.
LUCY SUNDELSON, ESQ.
NATHANIEL QUIGLEY, ESQ.
ADRIANNA FINGER, ESQ.
of the New York Bar
Debevoise & Plimpton LLP
for Defendants

ALSO PRESENT:

STEVE LAGUTIN, Russian Interpreter

- - -

THE COURT: Good morning.

ATTORNEY BARLOW: Your Honor, good morning. Mike Barlow on behalf of plaintiff, ATP III GP. I rise for a brief set of introductions. I'd like to introduce just a few people right now. We'll have a larger cast of characters throughout the day.

THE COURT: It seems like we have a large cast of characters today.

ATTORNEY BARLOW: To keep it all straight, we'll start with Mr. Andrew Berdon, Rachel Epstein. And of course the Court knows Garrett Moritz.

ATTORNEY MORITZ: Good morning, Your Honor.

ATTORNEY BARLOW: Point of order, would you like us to break at 10:45 today under the typical schedule?

THE COURT: Yes. So I owe you time over the course of the next couple of days. And I was going to propose that we go 15 minutes late today -- if our court reporters allow it -- and start 15 minutes early tomorrow. And that will give us some flexibility at the end of the day.

As you may be aware, I had a

preexisting commitment beginning at noon tomorrow, and I'll have to break at noon tomorrow. But I think we can make the time up easy enough.

ATTORNEY BARLOW: Thank you, Your Honor.

THE COURT: Thank you.

ATTORNEY ROHRBACHER: Good morning, Your Honor. Blake Rohrbacher, Richards Layton & Finger, for the Rigmora defendants. I'll start with introductions at the counsel table. Shannon Selden from Debevoise & Plimpton, Zach Saltzman, Lucy Sundelson. Back table as well, William Taft, Natascha Born, Sarah Wolf from Debevoise & Plimpton. And, Your Honor, Leslie Trzonkowski and Daniel White from my office. Our corporate designee Alexey Yakovlev is here.

And one housekeeping matter. The interpreter, Steve Lagutin, is here. We don't anticipate needing his services for the morning session, but we will need to figure out where he sits because we will need a microphone for him.

So that can be an after-lunch problem, but I wanted to raise it, and we can sort that out.

THE COURT: Thank you for raising it.

We'll figure it out between now and then.

ATTORNEY ROHRBACHER: Thank you.

THE COURT: Are there any housekeeping matters we should attend to?

ATTORNEY BERDON: Thank you, Your Honor. Andrew Berdon for ATP III GP, Limited, as general partner of ATP Life Science Ventures.

Your Honor, there's a pending motion to maintain the status quo. We served our opening brief September 19th, I believe. And the defendants served an opposition on October 3. In the interim, we've tried to reach an agreement, both as to the language of an interim order here, as well as to obviate the need for a motion for PLs in the Cayman Islands.

Yesterday afternoon, our proposal to appoint a special manager to oversee and work with ATP in the interim period was rejected. And so we would propose to put in our reply brief perhaps Sunday evening. So we'll have that fully briefed, and we can deal with any need for an argument for that next week.

THE COURT: Any objection?

ATTORNEY SELDEN: No, Your Honor. Sunday evening works for the reply for us.

THE COURT: All right. That's the plan. Thank you.

Shall we call our first witness?

ATTORNEY BERDON: Yes, Your Honor. The plaintiffs call Dr. Seth Harrison.

SETH HARRISON, having first been duly affirmed, was examined and testified as follows:

ATTORNEY BERDON: May it please the Court.

THE COURT: Yes.

DIRECT EXAMINATION

BY ATTORNEY BERDON:

Q. Good morning. Would you please introduce yourself to the Court.

A. My name is Seth Harrison. I'm managing general partner of Apple Tree Partners.

Q. And what is Apple Tree Partners?

A. Apple Tree Partners is a life sciences venture capital firm.

Q. And where is ATP based?

A. In New York, Boston, and the Bay Area.

Q. Can you briefly describe your educational background for the Court.

A. Yes. I went to Princeton, then

Columbia medical school. I did a year of surgery at the Presbyterian Hospital in New York City. And then I have an MBA from the Columbia Graduate School of Business.

Q. What was your work experience after you left medicine?

A. Business school.

Q. Your work experience after business school.

A. Yes. I started work immediately in a venture fund. I did a brief internship at Merck, learned that I preferred startups and founding companies. And I went to a larger venture fund as a venture partner, founded companies, they were successful. I became a general partner at Oak Investment Partners.

Into the late '90s I decided to do nothing but internet. I spun out my life sciences portfolio in 1999 in the first synthetic secondary with institutional backers to form Apple Tree Partners I.

Q. Who were your first institutional backers for Apple Tree Partners I?

A. Landmark Partners, Goldman Sachs,

Liechtenstein Global Trust, VenCap, an insurance company. I forget all of them.

Q. And what is your role at ATP?

A. I'm a managing partner.

Q. Did there come a time in your time at ATP where you were introduced to Dr. Dmitry Rybolovlev?

A. Yes.

Q. What were the circumstances of that?

A. It was 2010, in the late summer, and a major biotech analyst on Wall Street, I think he worked for Merrill Lynch at the time. He sent an email saying one of the oligarchs would like to learn about biotech, would you be interested?

Q. Did you and Dr. Rybolovlev reach an agreement where you would manage money for him?

A. Yes. We met first in October of that year, and then we had multiple meetings afterwards, long meetings. And, yes, we did come to such an agreement.

Q. And what was the first amount that you were asked to manage for Dr. Rybolovlev?

A. 100 million, U.S.

Q. And did that amount of capital get

increased at some point?

A. Yes. Originally he was interested in my managing a billion and a half dollars for him. I preferred to walk before we ran, and suggested the 100 million. And after about eight or nine months, we met again, and I suggested -- we agreed that we roll the 100 million into a larger facility. The 100 million was in a fund called Apple Tree III, and the larger facility became Apple Tree Partners IV, L.P.

Q. And when you increased the amount of the investment to $1.5 billion, was there a change to the agreements between yourself and Dr. Rybolovlev?

A. Yes, there was a new LPA.

ATTORNEY BERDON: Marco, can you please pull up JX 0001.

Q. If you could turn in your binder, Doctor, or you can look at the screen.

Dr. Harrison, do you recognize what's been marked as JX 1?

A. Yes. That's the ATP IV LPA, the first page.

Q. And when this document was first executed, what was the form of Dr. Rybolovlev's

representation in the L.P.?

A. Form of his ...

Q. Withdrawn.

What were the names of the investors who contributed on behalf of Dr. Rybolovlev?

A. He had two BVI investors called Ezbon and Blue Horizon.

Q. And were they limited partners?

A. Yes.

Q. Were there other limited partners of the fund?

A. Yes.

Q. Who else was a limited partner of the fund at the time of its initiation?

A. Myself.

Q. And did you contribute capital to the fund?

A. Yes.

Q. How much?

A. 54 million.

Q. And are you still a limited partner of the fund?

A. Yes.

Q. And do you still own 100 percent of

that 54 million contribution?

A. No.

Q. Who does?

A. I gifted approximately 55 percent of that to a trust for my children called Les Pommes.

Q. Who negotiated the limited partnership agreement, the LPA, on behalf of ATP?

A. Myself and Dan Finkelman, who is now or general counsel, who was at the time in the fund's practice at Proskauer.

Q. And who negotiated on behalf of Dr. Rybolovlev?

A. Dmitry himself, and his CIO at the time, named Mikhail Sazonov.

Q. Generally speaking, how does the LPA work in terms of making investments?

A. We have a concept called budgets, which I suggested. The reason I suggested it is that I understood that if I were going to give someone a billion and a half dollars, I wouldn't want to give it as an entire lump sum. I'd want some control over it. And yet, my going-in fundamental concern was to be able to remain autonomous as an entrepreneur.

So I suggested to Dmitry that we

create budgets for every project. And he could approve any budget he wanted, any project he wanted. But once a budget was approved to fund a project within that envelope of money, I would call like a GP.

Q. When you say "call like a GP," what does that mean?

A. Call capital discretionarily within a budget approved for a given project.

Q. And based on your understanding under the terms of the LPA, who controls the actual business of the fund and its investments?

A. The general partner.

ATTORNEY BERDON: Marco, can we pull up Section 2(b). Thank you.

Q. Dr. Harrison, do you recognize the portion of the LPA that's in front of you?

A. Yes.

Q. And is this the section of the LPA that you understand to vest control of the business of the fund with the GP?

A. Yes.

Q. So, Dr. Harrison, can you just explain the process by which budgets are presented and perhaps approved.

A. Yes. Typically, I and my team would develop an interest or an idea for a new project that would generally take the form of a new company eventually. We would vet it internally. After a certain point, it would come to a level where we were interested enough so that I would bring it up in a Zoom call or an in-person meeting -- which, there were many with Dmitry -- and we would discuss it briefly and give him a heads-up that in some two to three months' time, at our next meeting, we would talk about it in depth seeking his approval.

Q. We'll come back to the actual execution of particular budgets later.

But who participated in the substantive discussions with Dr. Rybolovlev about the founding of the companies that we're here to speak about today?

A. It was myself, Dmitry, his then-CIO. The CIOs changed over the years. Initially it was Mikhail Sazonov, then it was Anna Batarina, then it was Anna Kolonchina. Typically that was it. On rare occasions we would have members from the ATP management team there. But I believe it was not typically to discuss budget proposals.

Q. Does the LPA have a set of provisions that you understand control when capital can be called?

A. Yes.

Q. And do you have a general recollection of what part of the LPA governs the ability to call capital?

A. Section 5, is it?

Q. Do you know, was Section 5 amended during the course of the parties' dealings together?

A. I believe so.

Q. And would you understand -- do you recall which amendment has the changes that currently govern?

A. Is it 3?

Q. Let's take a look.

ATTORNEY BERDON: Can we pull up JX 4, please. And, Marco, can we take a look at the full first page, please.

Q. Dr. Harrison, taking a look at the first page of Amendment 3, does that refresh your recollection as to whether --

A. Yes.

Q. -- it amended Section 5?

A. Yes, it does.

ATTORNEY BERDON: And let's turn to the next page, Marco. And can we blow up -- yes.

Q. Dr. Harrison, is, to the best of your understanding, paragraph 5(a)(ii), as set forth in Amendment 3, the most recent iteration of Section 5?

A. Yes, with the exception that certain entities have -- are no longer in existence that are referred to in the paragraph.

Q. Okay. So let's just briefly talk about that.

What's the name of that entity that is out?

A. ATC, which stands for -- or stood for Apple Tree Consolidated.

Q. At the time of Amendment 3, what was the function of ATC supposed to be?

A. The function of ATC had been to be the holding company through which the fund made all project investments. Because Dmitry's original goal, and a goal that remained intact until our most recent meetings, was to build a family-owned pharma company using a venture capital frame or apparatus.

Q. So were references to ATC subsequently

removed from the contract by amendment?

A. Yes, I believe so.

Q. Was ATC ever formed?

A. No, it wasn't.

Q. Was there ever a board comprised of representatives of Rigmora and representatives of ATP that controlled the budgeting process?

A. There was a board called for, but it was never constituted and never met.

Q. And so can you explain to me how, in practice, capital got called by ATP.

A. Well, there would be an approved budget, and then we would send a capital call and the capital call would be paid. There was a certain formalization in how the capital calls were written and laid out. But that was generally how it worked.

Q. And, categorically, what types of subject matter could be the subject of a call that would require financing?

A. There would be calls for approved budgets, projects that were approved in budgets. There would be calls for management fees. And there were two management companies -- or are two management companies, Apple Tree Venture Management and Apple

Tree Life Sciences, Inc. There were calls for fund costs, all laid out in the LPA. And there were calls for incubation expenses. And there may have been one or two other categories.

Q. But those are generally set forth in Section 5, as amended?

A. Yes, they are.

Q. Were provisions built in to the LPA to deal with the situation where a limited partner defaulted on a capital call?

A. Yes.

Q. And, generally speaking, do you know where those were dealt with in the agreement?

A. I don't recall the exact paragraph, no. I'm sorry.

Q. You think it was in Section 5, though?

A. Yes.

ATTORNEY BERDON: Marco, can we pull up section -- well, JX 1 at 23, please.

Q. Dr. Harrison, I'm showing you on the screen here Section 5(c) of the LPA.

Do you recognize it?

A. I do, yes.

Q. And is this at least a portion of the

section of the LPA that deals with defaults on contributions?

A. Yes.

ATTORNEY BERDON: Marco, can we go down to (iv), please.

Q. Dr. Harrison, what are the GP's rights, to the best of your understanding, in the event of a default on a capital call by an LP?

A. Well, they are listed here. The GP might impose a default charge. The GP might help the defaulting partner in selling its interest to potentially a substitute limited partner. The GP might accept a late contribution at his discretion. And the GP has essentially the right to sue.

Q. And did you and Dr. Rybolovlev specifically discuss and negotiate the default provisions that we're talking about?

A. Yes.

Q. And, in particular, do you recall which parts of the default provisions you talked about with him?

A. The entirety of the default provision.

Q. Including the ability of the general partner to impose a default charge?

A. Yes, absolutely. I would say that would have been -- that was his focus, and we discussed that explicitly.

Q. And did you have a position that you expressed to Dr. Rybolovlev about the importance of that provision to you?

A. Yes.

Q. And why was the ability of the general partner to have certain enumerated rights in the event of a default important to you?

A. I explained to Dmitry that we were about to embark upon a fund that would be funded essentially for the most part by a single LP, single-point financing. And this introduced a structural risk that I appreciated but that, more importantly, any counterparty that the fund would ever deal with would appreciate -- every founder, every CEO, every hire at the fund, any counterparty.

And that we just couldn't do business. It would be highly unlikely that we would be able to even start business unless we had such a remedy -- which, of course, we would hope we would never use, but needed to be structurally in place. And, in fact, was typical for every venture fund that I've ever been

associated with or that I know of.

Q. Was there a limitation imposed on the size of the default charge that could be imposed?

A. Well, it has to be discretionary and it has to be proportionate to the default. But I think the limit is 50 percent.

Q. In addition to Amendment 3, has the LPA been amended by the parties?

A. Yes.

Q. Including Amendment 3, how many times?

A. 22.

Q. During the course of the negotiation and execution of those 22 amendments, were the default provisions of the agreement ever changed?

A. No.

Q. In addition to the rights enumerated in Section 5, is there another effect if a default is -- if a partner is found to be a defaulting partner under the agreement?

ATTORNEY SELDEN: Objection, Your Honor. It calls for a legal conclusion.

THE COURT: You can testify to your understanding of this agreement that you negotiated, if you have one.

THE WITNESS: Thank you.

ATTORNEY BERDON: I'll make my questions to that effect.

BY ATTORNEY BERDON:

Q. To the best of your understanding, Dr. Harrison, is there another effect if a limited partner is declared to be a defaulting partner?

A. Yes. The defaulting partner loses its votes to direct anything in the partnership per the LPA. And this was critical because the entire point of the partnership, the fund, is to fund its portfolio. And if there were a default, particularly from a single source, funding source, it would be imperative and an emergency that we find substitute capital.

So having full control to do so was what the entirety of the default provisions allowed and what we negotiated for.

Q. And is there a specific section of the agreement, to the best of your understanding, that deals with voting rights?

A. Yes, but I'm afraid I don't know the number.

Q. Let's see if we can refresh your

recollection.

ATTORNEY BERDON: Can we go to, Marco, JX 1 at 74, please.

Q. Taking a look at what's before you, Dr. Harrison, does it refresh your recollection?

A. Yes.

Q. And is this the provision that you are talking about that discusses voting rights?

A. Yes, it is.

Q. Taking a look at the last sentence -- and it's got two parts -- can you explain to the Court your understanding of what that means.

A. My understanding of what that means is that if a partner is declared a defaulting partner, they have no control over the fund.

Q. Dr. Harrison, at the time of the execution of the LPA, was there a subscription agreement also signed at that point?

A. Yes.

Q. And to the best of your recollection, what was the sum total of the subscriptions that were executed by Rigmora?

A. By -- approximately 1.425 billion.

ATTORNEY BERDON: I'd like to pull up

JX 212, please.

Q. Dr. Harrison, do you recognize what's been marked as JX 212?

A. Yes.

Q. And what is that?

A. It's a subscription agreement.

Q. And taking a look at the execution page of that agreement, which I believe appears at 19, can you explain to the Court what we're looking at here.

A. I don't see the execution date, I'm sorry. But it's a signature page from one of the two investors that Dmitry used to fund the fund that was called Blue Horizon Enterprise, or Blue Horizon for short. And it's signed by Mikhail Sazonov, who was the CIO of Dmitry's Family Office, and witnessed by Andrey Milkov, another member of the Family Office.

Q. In the amount as indicated there, that's Blue Horizon's share of the initial investment in ATP?

A. Yes.

Q. Was there a counterpart for Ezbon?

A. Yes.

ATTORNEY BERDON: Let's just take a

look at JX 213, please.

Q. This appears to be the same subscription agreement; correct?

A. Yes.

Q. Let's take a look at the signature page, the limited partner signature page.

Does that reflect the amount of the subscription by Ezbon International?

A. Yes, it does.

Q. And your understanding is Ezbon International is affiliated with Dr. Rybolovlev's Family Office?

A. Ezbon and Blue Horizon were investors incorporated in the BVI investor entities that were funded by Scorpios Trust, as I understand it, which is a trust in Cyprus for Dmitry's daughters, as I understand it.

Q. So as between Blue Horizon and Ezbon, back at the time of the execution of this subscription agreement, what was the sum total? Was it 1 point --

A. 1.425 between Ezbon and Blue Horizon, 1.425 billion.

Q. And what was to become of the other 75 million out of the 1.5 billion that you described?

A. That was my limited partnership interest funded by a loan from Dmitry -- or Ezbon, I believe.

Q. And did your participation, limited partnership participation, ever increase to the $75 million level?

A. No. It reduced to 54 million.

Q. And that was by agreement between yourself and Dr. Rybolovlev?

A. Essentially, yes.

Q. The documents in this case, Dr. Harrison, talk about the establishment and the presence of things called "pools."

Can you explain to the Court what a "pool" is in the context of ATP.

A. A pool is a subdivision of the fund which -- of a fund, but a fund that became Apple Tree Life Sciences Ventures, Inc. -- a master fund, if you will -- that contained different groupings of investment based upon vintage, dwell time, the teams that have put them together, the high watermarks of the different aggregated companies in each pool. They were essentially accounting devices.

Q. And why were pools necessary from the

point of view of the limited partners of ATP?

ATTORNEY SELDEN: Objection. Calls for hearsay, I believe.

ATTORNEY BERDON: Okay.

Q. Did you participate in the discussions with the Family Office about the establishment of pools?

A. Yes.

Q. What did the Family Office and you -- withdrawn.

What did you believe the utility of the pool would be?

A. It was multipart. I just described the utility sort of from a technical perspective because we had old teams and a new team coming in that would found new deals. So we needed to segregate their deals in a pool out of fairness.

There was the fact that the new money for a new fund, essentially -- or a new commitment was coming from Dmitry in the amount of $1 billion on top of the billion and a half. And there were concerns from the Family Office about KYC issues and that the establishment of a new fund would be difficult.

So we all agreed that pools would be

the correct way to go, the most efficient way, the simplest way.

Q. And the first time the pools were established, was there an amendment to the LPA that was signed between the parties?

A. Yes.

Q. Do you remember which amendment that was?

A. I think it was Amendment 13.

ATTORNEY BERDON: Marco, can we pull up JX 15, please.

Q. Dr. Harrison, do you recognize what's been marked as JX 15?

A. Amendment 13 to the LPA.

Q. And taking a look at Section (a) there, "Separate Pools," is this what you were discussing in terms of the first embodiment of pools?

A. Yes.

Q. Were those embodiments subsequently changed by amendment executed between the parties?

A. Yes.

Q. And were the names of pools changed?

A. Yes, the names of those pools were changed, and new pools were established.

Q. You made reference just a minute ago to a transition to a new $1 billion commitment and a new team, I believe. Can you tell the Court how it came about that the Family Office made a new billion-dollar commitment to the fund.

A. Yes. We had had quite some success in our investment programs. Not everything was a success, but it was a very successful run. And Dmitry was very excited to invest in more companies of a particular type. And there were also some issues with the prior team that, despite their successes, they were much more focused on investing than they were on operating.

So the idea became to hire a top team of pharmaceutical, R&D entrepreneurs who were ready to jump into venture capital, use their networks and their formidable skills and backgrounds to found deals and actually manage them themselves. So that's what we did.

Q. Very briefly, can you just tell the Court when you speak about these experienced executives, who are you talking about?

A. We hired Paul Eisenberg, who was a chief medical officer of Amgen, one of the top

regulatory professionals in the world. We hired Mike Ehlers, who was the head of R&D of Biogen and before that ran neuroscience at Pfizer. We hired Spiros Liras, who was a top medicinal chemist for 25 years at Pfizer and had been at Biogen for one year, didn't like it. We hired Paul Jardine, who is a top brain in medicinal chemistry, also at Pfizer for 25 years, I believe. And others.

Q. Did you discuss these hires with Dr. Rybolovlev?

A. Absolutely.

Q. And was the addition of this talent part of the process of deciding how the new billion-dollar commitment would be invested?

A. Yes. He followed it very closely. When we hired Mike Ehlers, he needed to be told immediately by a Signal call. It was something he was very enthusiastic about.

Q. How did you and the team vet new investments?

A. As I told you, in my experience, typically to find a good deal, you need to find somebody who has come out of a system where they're seeing everything related to that deal. So you hire a

graduate student in immunology to find a great immunology deal. And we did that, and we had a great immunology deal with an exit called Syntimmune.

In the case of hiring these pharma executives, typically they know exactly the deals they want to do, and they have great relationships in academia, but their companies squelched them. So that theory proved out. When we interviewed people, there were a ton of really interesting ideas, great network, and obviously they knew how to manage projects.

So we just followed through on that thesis. And that was the basis on hiring the team, and that was the basis on bringing in the new crop of deals.

Q. And what was the general process that you then had to get those deals to be approved and budgets for those deals to be approved with Dr. Rybolovlev?

A. Well, first, we would talk about them internally. We would have meetings where we would basically beat each other up. We would kick the deals apart, put them back together. We would decide what we liked. I would, in the end, adjudicate what was a worthwhile investment. And then I would begin to talk

about it with Dmitry. And we would agree, as I said earlier, to discuss that deal in depth at an in-person meeting in the near future. There were many in-person meetings, so that was easy enough to do.

Q. And, generally, was Dr. Rybolovlev's approval of sort of a go on a deal arrived at at one of those meetings?

A. Oh, yes, absolutely. From the very beginning he would agree to something, and it would happen. So although there was a formalization that came afterwards, I came to trust in his word, and that was how it worked.

So we would eventually present the deal -- or I would present the deal. We would talk about it at whatever length he wanted. We would talk about the amount of the initial commitment in the budget. He would nod yes, and then we would go and formalize the deal.

Q. And tell me what the formalization involved.

A. The formalization involved finishing the business plan, finishing the term sheets with the source of the starting technology or IP or founders, and then putting together an investment memorandum, a

budget, something called a CFIUS memorandum in a budget request, and then sending all to the Family Office in an email of transmittal. And that was the formal process of getting a budget approved.

Q. Now, was the amount of the initial investment agreed to before the Family Office received the investment memo?

A. Yes, in the meeting with Dmitry. It was usually on the boat or in his apartment or somewhere, and it was agreed.

Q. Were specific milestones ever the subject of negotiation between yourself and Dr. Rybolovlev?

A. Never.

Q. Did you and Dr. Rybolovlev ever talk about there being conditions to your ability to pull down tranches of funding once a budget had been approved?

A. Only in two budgets did that ever occur in the entire history of our relationship.

Q. And what were the two times that that occurred?

A. There was something called the Braeburn RPA, royalty purchase agreement, which had

specific milestones, and we all agreed to them. And the most recent and last budget approval before all this trouble, and that was for a company called Replicate. And that had one milestone that Dmitry and Yuri wanted to put in.

Q. Once the budget was approved and formalized, of what use internally at ATP were any milestones that had been discussed in the original investment memo?

A. Very little.

Q. And why is that?

A. Because managing research is an iterative process. You are conducting experiments and evaluating their results, and you are then taking the next step. And it's completely a contingent and pragmatic enterprise. And that's what a good research scientist or a good manager of research or a good VC does.

Q. Well, you talked about formalizing arrangements with the people who had the technology and founders. What type of agreements did you execute with those folks at the initiation of a new project?

A. There would be multiple agreements. But I think the most important would tend to be the

Series A, because it usually was a Series A round, a Series A stock purchase agreement.

Q. And in any cases did those Series A stock purchase agreements contain milestones related to release of tranches of funding?

A. In some cases, yes.

Q. And in those cases, what was the utility of having tranches describing the funding associated with milestones?

A. To give the funds control.

Q. What do you mean by that?

A. Well, typically a milestone is developed between a founder or investing company and a venture capitalist based upon the best foreseeable business plan or research plan at the time that that round closes. And a round will typically run for two years, let's say, or three years.

And things change. And they always change. There are so many contingencies that come up in biotech: research, clinical, toxicity, formulation, regulatory certainly, manufacturing. They always come up. And the whole point is how you deal with them.

And those tend to perturb your initial milestone set. They always do. And VCs and boards

are used to dealing with that and constantly modifying and modulating them. And very few people really adhere to a milestone set because the idea is to continue to build the company working with the teams.

So for us, knowing that, being of that world, of that practice, whenever we put in hard milestones, it was just to have a bit more control in case we should ever want to stop funding.

Q. In your experience, was a missed milestone in and of itself a reason to terminate funding under a Series A agreement?

A. No, as I said.

Q. Have you ever decided to shut down a company that was in the ATP portfolio?

A. Yes.

Q. Can you give us any examples?

A. There was a company called Adendra, there was a company called Kynos, there was a company called Rox. There was a company called Vytronus. There were multiple. It doesn't always work.

Q. How did you adjudicate whether or not to terminate funding of those companies?

A. It depended on the case. There could be a catastrophic failure in the clinic. There could

be a safety signal. There could be just a bald execution problem that you saw and you realized this project should not be continued.

I believe that was the case in Adendra, because there was supposed to be a certain kind of antibody produced and it just simply wasn't produced and we said this isn't worth it.

There could be other problems. But you reach the ability -- in a long career you reach the ability to judge when to shut something down. You're not always right, but you try to get there and you turn things off.

Q. Are there any companies in the current ATP portfolio that you believe should be shut down?

A. No.

Q. And have you participated in conversations about the current status of research going on at each of the companies in the ATP portfolio?

A. Yes.

Q. And from time to time were there disagreements among your management team about the relative benefits of going forward with one company versus another?

A. Yes, absolutely. That's a healthy management team. We are always discussing quite vigorously the pros and cons of any given deal at any time.

Q. Given the availability of funding, would you continue to pursue research for each and every one of the companies that are currently in the ATP portfolio?

A. Yes. In some cases in a more focused way, but yes.

Q. I'd like to direct your attention back to the subject of pools and the new contribution.

Was there an amendment executed between the parties that implemented that new billion-dollar commitment?

A. Yes.

ATTORNEY SELDEN: Objection. Calls for a legal conclusion.

THE COURT: You can answer the question, if you have an understanding of whether there was an agreement you executed for that purpose.

A. Amendment 17 to the LPA.

Q. Thank you.

ATTORNEY BERDON: Marco, can you bring

up JX 89, please. And, Marco, can you just show the first page. Thank you.

Q. Taking a look at what's up on your screen as JX 89, do you recognize it, sir?

A. Yes. That's Amendment 17.

Q. And it was executed in September 2020?

A. Yes.

Q. At the time of the execution of Amendment 17, what, to your understanding, was its purpose?

A. Its purpose was to establish the contribution of a new billion dollars or an additional billion dollars to ATP IV LP.

ATTORNEY BERDON: And can we do the call-out, please, Marco, on -- thank you.

Q. Dr. Harrison, do you have an understanding as to whether this Section "20. Pools A, B and C" was something that you negotiated to effectuate that change?

A. Yes.

Q. Dr. Harrison, can you explain to the Court the different categories of what was stratified in Pools C, B, and A, as they appear in interest, in sequence here?

A. Yeah. Well, we started to bring on this new team in 2018. So they were already doing deals. And so we desired to segregate the deals that they were doing in a new pool.

And it's all called differently now, so I think that was Pool C. Is that right? Right. So that was essentially for new deals formed by the new team. And that was going to be the focus of the billion dollars.

And then Pool B contained some deals that had already been done. And there was a mix between old team and new team in Pool B.

And then Pool A was essentially all the old deals in -- that took up much of the initial billion-and-a-half-dollar commitment.

Q. And were the names of those pools subsequently changed?

A. Yes.

Q. What are the pools called that have the new deals, as you referred to them?

A. It's a little complicated. The new deals are now in Pools V-1 and V-2, Roman numeral V, referring to ATP V, and Pools 1 and 2, V-1 and V-2.

Q. Is there something called Pool V-3?

A. Yes.

Q. What's in Pool V-3?

A. It's older deals that had not quite made it across the finish line that we founded with the prior team and which we felt had potential but needed work. And we thought who better to do that work but this fantastic team of pharma R&D professionals that we just brought in. So we segregated those deals in a separate pool called Pool V-3.

Q. At the time of the execution of Amendment 17, was there also an amended subscription agreement signed?

A. I believe so.

ATTORNEY BERDON: Marco, can we go to JX 99, please.

Q. Dr. Harrison, do you recognize this agreement?

A. Yes. That's the subscription agreement to which you were just referring to.

Q. Is that for both of the Rigmora LPs or just one?

A. Just one.

Q. Was there one -- so this one says

"Blue Horizon." Was there one also executed for Ezbon?

A. Yes.

ATTORNEY BERDON: Can we scroll down to the Ezbon.

Q. Take a look at JX 101.

Do you recognize that?

A. Yes.

Q. Is that the amended subscription agreement from 2020 for Ezbon?

A. Yes.

Q. Cumulatively, what was the amount of that new subscription?

A. $1 billion.

Q. After the execution of Amendment 17 and this amended subscription agreement, was there another significant contribution of capital agreed to between the parties?

ATTORNEY SELDEN: Objection. Calls for a legal conclusion.

THE COURT: Tease that out for me. How does this factual question call for a legal conclusion?

ATTORNEY SELDEN: I believe Mr. Berdon

is calling for a legal conclusion as to whether there is, in fact, another contractual agreement for capital. If it is a factual question as to Dr. Harrison's understanding, I have no objection. But to the extent Mr. Berdon is seeking a legal conclusion as to whether there is an another contract governing the commitment of capital, I object to that.

THE COURT: I'm interested in this witness as a fact witness. And it's a fair question to ask, whether he thinks he entered into an agreement.

So why don't you ask the question.

ATTORNEY SELDEN: Thank you.

BY ATTORNEY BERDON:

Q. Dr. Harrison, did you and the Rigmora entities talk about there being a substantial increase in their investment after the execution of the billion dollars?

A. Yes.

Q. And did you consider at least part of that investment to be an agreement to contribute new capital?

A. Yes, absolutely.

Q. And did you believe that you were

entering into an agreement that would be binding and increase the level of their subscription commitment in that agreement?

A. Yes.

Q. And what was that agreement called?

A. Amendment 20.

ATTORNEY BERDON: Can we please pull up JX 1061.

Q. Do you recognize what's been marked as JX 1061?

A. Yes. Amendment 20 to the LPA.

Q. When was that executed?

A. June of 2021.

Q. It says here that in numbered paragraph 21 -- it's labeled "Braeburn Inc." Can you tell the Court what Braeburn is.

A. Braeburn is a pharmaceutical company that we founded in 2012 that now -- and we founded it as a Phase 1 company and it now markets a drug for opioid addiction and should have a $300 million sales revenue year this year.

Q. And what was the purpose of creating a separate pool, Braeburn, at the time that Amendment 20 was put into place?

A. To segregate the investment in Braeburn.

Q. Did that have an effect on high-water mark?

A. Yes. Braeburn was a very capital-intensive deal and it was considered fair to move it out of the other pools and give it its own pool. We changed economics, carry economics in favor of Dmitry in exchange for the lower high-water mark, and there were certain other features of Pool Braeburn that were put into the amendment.

Q. Did Amendment 20 also discuss the contribution of new capital?

A. Yes.

ATTORNEY BERDON: Can we go to, please, Section 22, Marco.

Q. Was there an agreement in connection with the establishment of Pool Braeburn that involved the contribution of -- or the valuing of capital that had already been contributed into the fund?

A. Well, to form the pool from ATP IV, or whichever Pool Braeburn had been in at that time, that there was a contribution to the new pool, which at that time of the formation of Pool Braeburn

constituted its capital. And that was 204 million, approximately, which was the valuation of Braeburn at that time.

Q. Taking a look at page 6, additional paragraph 22.

Can you tell the Court what your understanding is of the role of ATP Pool V-3 in Amendment 20.

A. Yes. I referred to it before, the setting up of a pool, in which companies that had been founded by a prior team but hadn't quite made it, that would be managed by the members of our new team, the pharma R&D executives. And that was Pool V-3. And in this paragraph, the companies that we wanted them to work on and that we put in that pool are called out.

ATTORNEY BERDON: Can you go to page 7, Marco.

Q. Is there a discussion there of capital -- new capital commitments?

A. Yes.

Q. What was the new cash, if any, that was to be provided under paragraph 22(b) relating to Pool V-3?

A. There were already existing budgets in

the amount of 71 million, you can see it in the paragraph, for these companies. And there was an agreement for committed capital of an additional 235 million, which you can also see in the paragraph. And the companies themselves were valued at approximately 190 million. And those were contributed to the new pool from the old pool. And the total of those three numbers was 500 million, which was the capitalization of Pool V-3.

Q. After the execution of Amendment 20, did ATP start to call capital on the amounts it had agreed to in Amendments 17 and 20?

A. Yes.

ATTORNEY BERDON: Taking a look at JX 230, please.

Q. Dr. Harrison, take a look at what's been marked as JX 230. What is it?

A. It's an email transmitting a capital call.

Q. Can you just introduce the Court essentially to who Anna Batarina is.

A. Anna Batarina is a partner in the fund. She started out as a member of Dmitry's Family Office. She was the CIO, as I understand it, for one

year and then was put at ATP by Dmitry as a kind of liaison, and eventually we made her a partner and a part of the team.

Q. Did Anna Batarina have to talk to you before she was allowed to talk to Dr. Rybolovlev in the chain of command?

A. Oh, no.

Q. And why do you say that?

A. Anna had a fluid dialogue with Dmitry. They talked quite often. I mean, I don't know how often. But whenever we were together, Dmitry would call her, she would call Dmitry. It was a full communication. I actually talked with her and said I think, from a GP perspective, we should really discuss what information gets communicated because some information is just not mature. And she felt that all information needed to be communicated. So that's how it was done.

Q. Did it become the practice at ATP to keep track of the drawdowns against agreed capital contributions whenever capital was called?

A. Yes.

Q. And how was that tracked internally?

A. Oh, internally we had a CFO.

Unfortunately, he resigned due to the defaults. But Bill would track these things meticulously, his finance team would. Of course we have audited financials, we have quarterly reports. So these were, of course, tracked.

Q. And did you provide updates to Rigmora about the accounting that you had on hand?

A. Yes.

Q. And how often were those updates provided?

A. With every single capital call.

ATTORNEY BERDON: Can we please pull up page 4 of JX 230.

Q. Dr. Harrison, do you recognize this form?

A. Yes, I do.

Q. And what is it?

A. It is the exhibit that you just referred to, which gives the Family Office a then-current statement of their funded and unfunded commitments across all the pools in the fund.

Q. And it shows commitments for ATP IV; yes?

A. Yes.

Q. And can you explain to the Court, what was left in ATP IV as of June of 2021?

A. After Amendment 20, we created a Pool ATP IV, and that contained the residuals of the prior exited deals. There were milestones that would pay out and that sort of thing from companies that had been sold.

Q. And at that point, what was the intention for Pools V-1 and V-2? Were those for the new deals?

A. Yes.

Q. And you talked about Pool V-3 previously. Cumulatively, what was the capital commitment that you communicated to Rigmora in June of 2021?

A. In this capital call -- the total unfunded commitment as of this capital call after the call was about 1.5 billion.

Q. Do you know if Anna Kolonchina, the recipient of JX 230, ever got in contact with Rigmora -- withdrawn.

Do you know if Anna Kolonchina on behalf of Rigmora ever got in touch with ATP to object to the accounting that was provided here?

A. Not that I'm aware of.

Q. How many capital calls do you believe were made and paid in the three years between 2021 and 2024?

A. I think it's four years, but scores. I don't have a number.

Q. Somewhere close to a hundred?

A. I don't know. I'm sorry. I mean, we could check, certainly, but many, many, many.

Q. Any time during that period of time before October of 2024 that Rigmora indicated a disagreement with the running total that had been provided by ATP attached to one of its capital calls?

A. There was never a time.

Q. I'd like to direct your attention to the fall of 2022. Did you have conversations with Dr. Rybolovlev over the summer of 2022 about his views towards future investment and founding of new deals?

A. Yes.

Q. What were those conversations?

A. Well, they evolved. They started out with the same idea that we had had in forming the pools that would take the new capital commitment because we had this great team and they had many, many

deals in their network. And no matter how we tried to beat them back, they kept coming up. And the team had some very many great deals to do. So there was a push/pull.

Dmitry was concerned about the Ukraine, concerned about liquidity on his behalf, but he really wanted the new team to be able to be capitalized to do deals. So we went from, I think, six new deals to three new deals to eventually late in the year -- and I know I get ahead of your question -- but just to complete the idea, only one new deal, and barely that.

And during that summer, he indicated that he had wished that he had not taken on the commitment to invest in new deals. And he told me that if he could default on a pool or on pools, it would be on V-1 and V-2. And there were several other features of the landscape at that time that were quite troubling.

Q. So let's go to the first time that you recall Dr. Rybolovlev saying that he regretted the investments in pools V-1 and V-2.

Was that in a face-to-face meeting?

A. Yes.

Q. Do you recall where that meeting took place?

A. I believe it was in Monaco.

Q. Can you place it in what month?

A. June or July.

Q. Did you end up writing a memo to Anna Kolonchina giving a chronology of events?

A. Yes. That was a memo at the end of November, because much had happened from the start of that summer through near the end of that year.

Q. Would reviewing that memo perhaps refresh your recollection as to the timing of meetings?

A. It might. I remember that there were -- there was a very long set of meetings with Dmitry in his apartment in New York in October, and we met multiple times. And much of this information came out in those meetings.

ATTORNEY BERDON: Marco, can we please pull up JX 969.

Q. Dr. Harrison, do you recognize what's been marked as 969?

A. Yes.

Q. And what is it?

A. It's an email from Anna Kolonchina to me dated December 12. And then it's responding to a long email that I sent her dated November 29.

ATTORNEY BERDON: Taking a look at the top bullets on page 3, please, Marco. I'm sorry, the bottom of page 2.

Q. Taking a look at those bullets -- and you don't have to read them out loud -- I'm just going to ask whether they help refresh your recollection as to the timing and location of meetings?

A. Yes.

Q. When do you believe the Monaco meeting took place?

A. I'm sorry. Yes, the -- so the meeting where Dmitry discussed with me the idea of reducing commitments both to new deals in V-1 and V-2 and calling less capital per unit time for approved budgets in V-1 and V-2, that took place in Monaco in late September .

Q. The word "austerity" is here in quotes. What do you recall about anyone's use of the word "austerity" in those meetings?

A. I recall that Anna Kolonchina used the word first, and it was the word she used to describe

this idea of calling less capital per unit time.

Q. And at the follow-up set of meetings, do you recall Dr. Rybolovlev drawing a distinction between his view of funding pools V-1 and V-2 versus V-3?

A. Yes, those are the New York meetings in October. And he basically told me, as I interpreted it, that was contemplating a selective default on pools V-1 and V-2.

Q. And at that point were the companies in Pool V-3 companies that had products in active clinical development?

A. No.

Q. What was the basis -- did he explain to you why Pool V-3 was preferred to him over Pools V-1 and V-2?

ATTORNEY SELDEN: Objection. Calls for hearsay.

ATTORNEY BERDON: By a party opponent?

THE COURT: Overruled.

BY ATTORNEY BERDON:

Q. Did he tell you why he favored Pools V-1 and V-2 over V-3?

A. Though they were earlier deals, I

believe he understood them better. We talked about them a lot. And they were ostensibly going to reach the clinic sooner than the deals in Pools V-1 and V-2. That's actually not what occurred. But that was the perception at the time.

Q. And at the time that Dr. Rybolovlev spoke to you about his desire to focus on Pool V-3 over deals in Pools V-1 and V-2, did he talk about the possibility of a default?

A. Yes.

Q. And did he express to you his view as to the consequences of a default if he defaulted not just on deals in Pools V-1 and V-2?

A. He told me that he believed there was a pool-by-pool default, not a global default. And then at one of the meetings when I -- I said that's -- I disagree. And then he asked me to agree in a subsequent meeting.

Q. Just to be clear, Dr. Rybolovlev asked you to reach an agreement that there were provisions -- that there would be provisions for pool-by-pool default; is that right?

A. Yes.

Q. Did you agree to make that change?

A. On the spot I told him -- it was often on the spot. I told him I would consider it because I was very, very eager to cooperate and try to work with him. I respected him. He provided an enormous amount of capital and we were doing a lot of good together. But I went home and I thought about it and I realized I couldn't agree to it.

Q. Did you ever reach agreement to modify the LPA to approve a pool-by-pool default structure?

A. Absolutely not.

Q. Did you do anything in terms of the administration of the fund or the portfolio or capital calls in response to the information that you had been given about liquidity or cash flow issues with Rigmora?

A. Yes, absolutely. As I said, we were always trying to accommodate them and trying to work with them. I couldn't agree to a global default, but I could certainly agree to calling capital at a lower rate. And so we went back to the teams and the companies and said, look, can you make due with less? In this quarter, can we call this amount and not that amount? Can we reduce the scope of the projects that the companies are working on? Those sorts of things.

And I would get pushback. And it would be, wow, yeah, but you know that means we're not going to reach the clinic.

And I would say it's okay if it takes another six months or even a year. It's better to have lower capital calls. It's what Dmitry needs.

And everyone would agree, and we would slow the companies down or drop some programs and call less capital.

Q. If you made those types of changes, would that have an impact on the company's ability to reach milestones that might have been described in the original investment memoranda?

A. Yes, in theory. But as I said, those milestones in an IM are rapidly obsoleted by the developments in the companies. But to the extent that there was one that was still being worked on, yes, absolutely. Any program that was being worked on when we slowed down the capital was going to get wherever it would go slower.

Q. And did you ever discuss with Dr. Rybolovlev the effect of reduction in the amount or pace of infusions of capital on the progress of these companies?

A. Yes. We said we can do it, but it's going to slow things down. And we said okay.

Q. While you were administering this belt-tightening, were you concerned that Dr. Rybolovlev would actually default on his commitments?

A. No. I had faith in the pillar of the partnership, at least my opinion of it, which I told him at the very beginning, and I maintain, and that is that he would not default because of the global default, if necessary, as a deterrent. Also because I thought he was honorable and believed in the companies.

The problem was that I had -- once we started to slow down the flow of capital, I had many, many people coming to me, worried in the constant -- the refrain was, okay, I understand liquidity constraints and slowing things down, that's okay. But do you think that the Family Office will meet its obligations for the entire Series A? Should I worry about that?

And my answer was always no, absolutely not.

Q. Just to be clear, your answer to those

folks was that ultimately you believed that the Series A funding would be there?

A. Yes, that the approved budgets would be met and the approved budgets matched the size of the Series A financings per company.

Q. In parallel with this, were you also doing some thinking about what would happen in the event of a default?

A. Yes.

Q. What did that look like generically, without disclosing the contents of any specific conversations?

A. When your largest LP tells you he's thinking about defaulting, honestly, you pick up the phone and call your lawyers and say, what does this mean? Can we look at the LPA? I need to understand this. I've never been in this situation before. And so we did.

Q. What would the consequences be of a funding default in Pools V-1 and V-2 to the folks associated with the portfolio companies, in your estimation at that time?

A. They would lose their jobs, they would lose the value of their equity. Projects wouldn't be

funded that we committed to academic institutions. And extremely well-known scientific founders with many, many options as to where they could go, other venture funds -- and they had chosen us -- who had had long conversations with me about the existence of the global default, those commitments wouldn't be honored. Each company has employees, has contracts for various kinds of leases, funded research back to founder labs. All of it would cease, and indeed in the current default has.

Q. There's a bit of contention in this case that perhaps some of the portfolio companies were wasteful or inefficient with their spending of capital.

Are you aware of that?

A. Yes.

Q. And did you or your management team ever take a look at the relative efficiency of one of your portfolio companies versus a set of peers?

A. Yes.

Q. Do you remember which company you looked at in that case?

A. That happened to be Ascidian.

ATTORNEY BERDON: Can we take a look

at JX 874, please, Marco. Let's start at page 1.

Q. So who is Dan Rosan?

A. He's the chief financial officer and chief business officer of Ascidian.

Q. And what was being sent to you and Ms. Batarina and Mr. Ehlers here?

A. It looks like a board pack from May of 2024.

Q. Turning to page 42 of that deck.

A. It also includes the Roche deal, definitive agreement.

Q. I'm sorry. Can you just tell the Court what you mean when you say "the Roche deal."

A. Ascidian did a big corporate partnership with Roche, and I believe it had just closed at that time.

Q. What type of financial relationship was put into place between Roche and Ascidian; do you recall?

A. It's a typical BV deal where Roche committed to develop three what are called targets, starting points, in the biology that Ascidian is exploring to create drugs. Those happened to be in the neurodegenerative disease space. For those three

targets, they agreed to an upfront fee of nondilutive cash on signing of 15 million per target, so 45 million.

And then there typically are some R&D milestones, early milestones that the company covers the R&D that takes place at its labs for those targets. And then there are milestones that are paid in the course of the work on the project starting with as early as one year after the commencement of the work for research milestones all the way out to post sales, reaching a certain plateau in revenue. And there's a royalty.

Q. Taking a look at what is in front of you as page 42 of that board deck, is this the comparison of efficiency that you mentioned earlier?

A. Yes. I was actually surprised.

Q. And how do you interpret the information on this slide?

A. Well, this is a list of competitors in what's called the RNA editing space or DNA editing space. And I will not go into detail unless asked. But these are companies that were founded to do something close to what Ascidian does.

And you can see -- and it measures how

much equity funding had been required until the company got its first project into the clinic.

And you can see that while some of them have greater pipelines and one has more than one clinical project, they have massively more equity financing than Ascidian. Ascidian took $78 million to get a very important product into the clinic for Stargardt's disease, which is the most common hereditary blindness, and it has a pipeline of seven programs. Not bad on 80 million.

You see what others have done for -- I don't know. The closest is three times more or something. No, that -- the closest that got into the clinic with one product was 361 million.

Q. Thank you, Dr. Harrison.

I'd like to just turn your attention back for a minute to Braeburn.

You mentioned that Braeburn is a pharmaceutical company that has a product on the market now. Has it been valued recently?

A. Yes.

Q. And what was the equity valuation at that time?

A. $2.2 billion.

Q. And was there also a DCF valuation done at that time?

A. Yes. It was 2.9 billion.

Q. Why is there a difference between the equity value and the DCF value, to your understanding?

A. The delta is made up by a royalty that ATP owned entirely, which was valued at the time of distribution at about 700 million and has a total face value of around 900 million. And that was distributed into a pass-through entity that is owned by the two partners in Pool Braeburn, myself and Anna Batarina, and the Family Office.

Q. Putting the royalty agreement aside, was Braeburn on firm financial footing in 2021, 2022?

A. No.

Q. And did ATP enter into any financial arrangements to address that in addition to the royalty agreement?

A. No -- oh, I'm -- in 2021?

Q. No. 2022 or 2023.

A. Oh, yes, we did, yes.

Q. What arrangements did Braeburn enter into?

A. We worked with Braeburn to put in

place a launch debt with Hercules Capital.

Q. Before putting the Hercules facility in place, who was going to be responsible for paying for the launch of Braeburn?

A. It would have been paid entirely out of the royalty purchase agreement, which was from capital provided by the Family Office.

Q. And did the Family Office have financial obligations to contribute capital for the purpose of funding the Braeburn launch?

A. Yes. The RPA required a budget commitment of $200 million, which they signed.

Q. Was there a rate of return that was agreed to in return for that $220 million commitment?

A. Yes. It was a 40 percent royalty but contingent on several things. It was capped at five times whatever amount would have been invested in the RPA, the royalty purchase agreement.

Q. Did Rigmora originally support the idea of the Hercules financing?

A. Yes, they asked us to do it.

Q. And did they stay constant in that support?

A. It was a bit schizophrenic. In -- so

we set up this launch debt with two different debt providers, and there were KYC problems, and they withdrew their term sheets.

Fortunately, ATP had a relationship with Hercules through another portfolio company that was public. So we called Hercules and asked them if they would do a deal, and they did. They did a very good deal with us.

Right at that time, the Family Office called for the distribution of Braeburn under Amendment 20 of the LPA. It's a distribution provision that entitled the Family Office to call Braeburn out of Pool Braeburn but subject to several conditions. The conditions weren't met, but more importantly, Hercules put conditions on providing their launch debt, which was that Braeburn be controlled by ATP and also that the securities of Braeburn -- namely, the equity and the royalty purchase agreement, and there was also a convertible note -- be essentially subject to their lien to secure the note. So calling, distributing those securities would have resulted in obliterating that deal.

Q. So the Family Office and ATP reached agreement to move forward with the Hercules financing

and put the distribution of Pool Braeburn aside at that point?

A. Yes, essentially.

Q. Did the issue of the distribution of Pool Braeburn come up again?

A. Yes.

Q. When was that?

A. July -- late July of 2024.

Q. And did that lead to a disagreement?

A. Yes.

Q. Did that disagreement become public?

A. Yes.

Q. How?

A. They sued us in Cayman.

Q. In connection with that lawsuit, did ATP assert any counterclaims?

A. No.

Q. Did ATP run into court here in Delaware to assert claims against Rigmora after being sued in Cayman?

A. No.

Q. What happened to that disagreement and lawsuit in Cayman?

A. I flew to Monaco and I suggested to

Dmitry that the best thing would be to settle. We had a couple of days of meetings and we agreed to the basic outline of a settlement in order to continue to work together.

Q. And during the time between the commencement of that lawsuit and the ultimate agreement to settle it, what was going on in terms of funding Pools V-1 and V-2?

A. We were calling capital, and the Family Office was meeting the capital calls.

Q. Did the Family Office's position change with respect to any aspect of its obligations to meet capital calls?

A. Did their position change?

Q. Yes.

A. Yes.

Q. And what changed?

A. Bizarrely, in October of that year, we started to receive the capital calls with a disclaimer that the Family Office viewed them as voluntary.

Q. And did the Family Office at that time explain to you why they felt it was voluntary?

A. No.

Q. Not in any conversations between

yourself and the folks at Rigmora did they explain it to you?

A. There weren't open, fulsome conversations at that time because, don't forget, we were in litigation and we were trying to settle it. So the conversations were constrained to initially the legal exchanges in the suit and then the settlement discussions.

ATTORNEY BERDON: Can we pull up JX 998, please.

Q. Dr. Harrison, looking at Exhibit 998, do you recognize it?

A. Yes.

Q. And what is it?

A. It's one of those disclaimer emails.

Q. And it's from Anna Kolonchina?

A. Yes.

Q. Now, she refers to an affidavit in that email.

Do you know what she is referring to there?

A. I believe it would be an affidavit that she would have made in their Cayman lawsuit.

Q. And did this language or language

referring to it ever appear again in correspondence from Rigmora?

A. Yes. It became a feature of their correspondence related to incoming capital calls.

Q. And how did the Braeburn litigation resolve?

A. It resolved in a settlement, which took the form of Amendment 22 to the limited partnership that I believe was signed December 20, 2024.

Q. Thank you.

ATTORNEY BERDON: Your Honor, I think we're up close to the time you wanted to take a break.

THE COURT: We are. We can do that. Thank you.

Let's take 15 minutes.

(Court in recess at 10:45 a.m.)

(Resumed at 11:00 a.m.)

THE COURT: Please be seated.

ATTORNEY BERDON: May it please the Court.

BY ATTORNEY BERDON:

Q. Dr. Harrison, just before the break we had talked about the execution of Amendment 22.

During the time that the Cayman litigation was pending, were there portfolio companies at ATP that were nearing the end of their Series A commitments?

A. Yes.

Q. Were there initial budgets?

A. Yes, their budgets at that time.

Q. And were there discussions between yourself and Dr. Rybolovlev about new budgets while the litigation was ongoing?

A. Yes, they were part of the settlement discussion.

Q. And were there -- can you explain to the Court the issues that you were facing in terms of certain companies coming to the end of their financing, initial financing commitments and initial budgets?

A. Well, the issues were that the companies in question in most cases were projected to run out of cash by certain dates. In one case, there was a company, Ascidian in particular, that would get to the middle of that Stargardt disease trial and then run out of funding to conclude it in the proper way with what's called a pediatric cohort. And that required additional capitalization in the form of equity and a new budget commitment. This was not news. This was an ongoing discussion.

Q. And, as you said, those discussions became part of the settlement discussion; is that correct?

A. Yes.

Q. Did they become part of the settlement agreement?

A. Yes.

ATTORNEY BERDON: Can we please have JX 1068.

Q. Dr. Harrison, do you recognize what's been marked as Exhibit 1068?

A. Yes.

Q. What is it?

A. Amendment 22 to the LPA.

Q. Do you recall there being a specific section that was called out to discuss about budgets?

A. Yes.

Q. Off the top of your head, do you recall what that was?

A. I happen to. It's paragraph 26.

ATTORNEY BERDON: Can we go to page 4, please, Marco.

Q. So I don't want to spend too much time on this, Dr. Harrison, but can you tell me an overview of what's discussed here in terms of the cash-out dates for these various companies.

A. They're four companies with projected cash-out dates: Aulos, which is developing a cancer drug in the middle of a clinical trial; Nereid and Nine Square, which are neurodegenerative disease companies that have very promising preclinical projects; and Replicate Bioscience, which is an RNA vaccine company with several promising projects and a clinical project.

Q. And is it fair to say that paragraph 26 here actually gives estimates of their cash-out dates as of the time it was executed?

A. Yes.

Q. In your view, was it clear to the Family Office and Dr. Rybolovlev that these companies were running out of cash in the near term as of December 20 of 2024?

A. Yeah, it wasn't news. We had discussed the need for new budgets -- had been discussing the need for new budgets prior to the commencement of their suit, their lawsuit.

Q. And I note that there's a proviso here that talks about "twelve months" budgets, a period of 12 months after the remaining unfunded amounts.

What was the significance at that time of the "twelve months" language?

A. Well, when I went to Monaco and proposed to Dmitry that we settle, I told him that, look, we've come a long way, we've been working together since 2011, we've had some great successes. But we've yet to build the pharma company that you wanted to build. It turns out that in the portfolio right now, Dmitry, there are projects that, at least to my mind, represent the formative aspects of that company. And we could take those pieces and really figure out how best to organize them in such a company.

And he said that's what he wanted to do. And that was the basis of the settlement.

But I said that it will take awhile to figure that out. That's a very complicated plan. We have the team, able to do it, but it will take some time. And I proposed that we put in place holding budgets so that the companies that were running out of money could continue for a 12-month period during which time we at ATP would work diligently on creating that plan and also work collaboratively with the Family Office and Dmitry.

Q. Turning your attention to the last sentence of paragraph 26. Can you tell the Court your understanding of the meaning of that last sentence.

A. That they would reasonably consider the new budgets and work diligently, and we would work with them, to create a loan facility that would be secured by the pass-through entity that had received the Braeburn royalty purchase agreement or the Braeburn royalty.

Q. And that was targeted to raise a certain amount of money?

A. About 300 million. He said he would use that 300 million to build pharma.

Q. And what was your understanding at the time of the availability of that type of financing?

A. Very available.

Q. And why do you say that?

A. Because the original idea of doing a royalty financing based on the royalty came from us. About a year prior, understanding there were liquidity issues -- this is before the suit in Cayman -- I started to sort of approach my network, which includes financial groups that do nothing but finance royalties. You sell them a royalty that you own and they pay you back something less than the total cash flow that you project it will have.

And we had worked out a deal where this $900 million-phase royalty would generate approximately 700 million for the Family Office. And we brought it to them, and we sort of didn't hear about it for awhile. And then they came back and said, oh, we have a better deal, we're going to take it on ourselves.

And that disappeared. That was sometime in the early summer of '24. And then the lawsuit. So when we emerged from the lawsuit via the settlement agreement, I thought we were going to

collaborate on the royalty financing, but they wanted to do it themselves. And after several months they failed.

Q. Do you believe that Rigmora was reasonable in trying to pursue that equity financing on their own?

A. I can't comment on that. I think it -- they certainly didn't use a resource that was right in front of them — us. We tried, but they wouldn't accept our help.

Q. Did Rigmora hire a financial advisor to try and help them?

A. Yes.

Q. And to the best of your understanding, does that financial advisor have a presence in the market for royalty finance?

A. I don't know that they particularly do or not. I think there's somewhat of a general shop based in the UK. I know that the group that we were working with does nothing but royalty deals.

Q. Have any of the companies listed in paragraph 26 been given additional financing by Rigmora?

A. Yes.

Q. Which?
A. Replicate.
Q. At the time of the execution of Amendment 20, what was Replicate's target out-of-cash date?
A. At the time of the execution of Amendment 22?
Q. 22. Forgive me.
A. February of 2025.
Q. Do you recall the date on which Amendment 22 was executed?
A. December 20th of 2024.
Q. And did ATP submit new budget requests to the Family Office after the execution of amendment 22?
A. Yes.
Q. When?
A. December 24th.
ATTORNEY BERDON: I'd like to put up Exhibit 1079, please, Marco.
Can you scroll down do the bottom email, please.
Q. Dr. Harrison, except for the fact that this appears to have been taken from Rigmora's files,

do you recognize the email that's highlighted in front of you?

A. Yes. It's my email of transmittal contained in the email to the -- the attachments were the budget requests.

Q. And in particular, did you have materials there for Replicate?

A. Yes.

ATTORNEY BERDON: Can we go to page 3, please, Marco.

Q. Do you recognize what's on the screen now?

A. Yes.

Q. What is it?

A. It's an investment memorandum we prepared for the $11 million funding extension for Replicate.

Q. Was it typical for ATP to prepare a whole new investment memo for an $11 million budget extension?

A. No.

Q. Why did you prepare it?

A. We were coming out of a lawsuit. We wanted to be really buttoned up. We wanted to make

sure that we did absolutely everything we could to make certain that the budgets were going to be approved. And we actually thought it was unnecessary in a normal operating environment. But we weren't sure what that operating environment would be after the settlement agreement, so we had our teams prepare a lot of materials.

Q. And I'm not going to walk you through it today because it's pretty technical. But did you believe it was adequate for the purpose?

A. More than adequate.

Q. Did you hear back quickly from the Family Office in response to your request for the $11 million budget extension for Replicate?

A. Not really quickly.

Q. Well, do you recall any response?

A. Yes.

Q. And what do you recall?

A. Yuri Bogdanov, who had recently become the head of the Family Office, sent us a very curious diligence request email.

ATTORNEY BERDON: Can we pull up JX 1107, please.

Q. Dr. Harrison, do you recognize what's

been marked as JX 1107?

A. Yes, I do.

Q. And taking a look at the email, what is it?

A. That's an email from me to Yuri saying that it's essential that we fund Replicate. We agreed to fund 12 budgets to the companies that we know are running out of cash, Replicate among them. Replicate is running out of cash on schedule, which would then be two weeks from the date of the email.

ATTORNEY BERDON: Can you scroll to the top. There you go.

Q. Do you recall receiving this response from Mr. Bogdanov?

A. Yes.

Q. And did Mr. Bogdanov have an attachment to this email that posed some questions?

A. Yes.

ATTORNEY BERDON: Can we get the next page, 3, please.

Q. Dr. Harrison, what's wrong with this set of questions?

A. It's bizarre. I mean, first of all, this is a company that we founded I think in 2021 and

on which we'd reported extensively, were the sole owner, and we had many, many, many conversations about with Dmitry.

And typically when you know a deal and you're just funding specific programs that you know and you understand the technology and you understand management and everything, providing an additional relatively small amount of capital shouldn't require much diligence at all.

Questions are, of course, fair. And reasonable questions are more than fair. And we're not only prepared to answer any questions, but we had already talked about Replicate, and then in the investment memo addressed all of their issues involved in what the company was going to do at that time with that $11 million.

What we have here, if you look at the first bullet point, Yuri is asking for all the board minutes and board materials since inception. That's just not a reasonable diligence request. It has no meaning for what the company is going to do with $11 million aliquot going forward in a specific couple of projects. That's the kind of diligence request that might come in an M&A transaction at the very end

of the transaction from a corporate buyer's legal department.

Then there's other features of this. The second one is also very strange. It's asking for a bring-down of all the company's spending, essentially, since inception, categorized by certain categories. I've actually never seen this before in any diligence effort in which I've ever been involved, either as the diligence doer or the diligence receiver, ever. So entirely make-work.

And then there were questions that were kind of unsettling because they referred back to the original Replicate investment memo. But not only were we clear that investment memo milestones don't travel with a development of the company, in Replicate's particular case we had pivoted away from the original investment memo milestones via an approved budget extension that the Family Office knew about and approved.

So Yuri here is asking about this pivot as if it's news. And that pivot was from cancer vaccines to infectious disease vaccines, which we did during COVID. And he's asking to justify the pivot and what does it mean about the company in a quite

negative framing.

And it goes on in that way that made us realize that this was anything but reasonable consideration of a new budget. It was, in fact, a kind of blockade.

Q. And just so the Court understands, when you talk about a "pivot," can you briefly talk about the significance of a pivot from a technology point of view and from the perspective of a venture capital manager.

A. Well, these projects are like organisms. You're always measuring them and figuring out what they're doing and then adapting your plan to what they produce in experimental results. You're also factoring what's going on in the environment, in the world, and you're understanding what you can do with a capital that you have in your budget or your Series A round or committed capital from another source.

In the case of Replicate, the RNA technology that it has really does have the potential to create a certain kind of cancer vaccine that would be great. The problem with that is that it would take three years to read out in a clinical trial. And we

already knew that it was problematic, from that perspective, when we founded the company.

And then when we were facing syndication issues, not related to companies, and COVID happened, we were intrigued by the idea of doing a different kind of a project in infectious disease that would read out, achieve its clinical proof of concept sooner. And that turned out to be a rabies vaccine. And so -- and that required moving from a $40 million Series A budget approval to a $53 million Series A budget approval, i.e., a $13 million extension.

And we talked about that with the Family Office and sent in that budget extension request with no IM, with no fanfare at all. They approved it, and we got on to doing the business of the pivot. The rabies vaccine, by the way, succeeded very well.

Q. Did the Family Office end up approving an extension of the budget for Replicate in early 2025?

A. Yes.

Q. How much did you ask for?

A. 11 million.

Q. And how much did they end up approving?

A. 18 million in two $9 million pieces.

Q. Was there any other condition that the Family Office placed on its willingness to fund those amounts?

A. Inside the budget, no, there was -- we agreed there would be -- this was the only budget aside from the Braeburn royalty purchase agreement, $200 million commitment, where there was a milestone inserted at the request of the Family Office. And that milestone request language is actually in the LPA. They can request and we reasonably do allow, but it only happened once. It was in this budget.

And the milestone was that Replicate conclude a Latin American deal with a pharma company in Latin America for the rabies vaccine.

Q. Do you recall receiving an email from Patrik Blöchlinger regarding the Replicate budget approval?

A. Yes, it was also quite strange. We sent the -- yes.

ATTORNEY BERDON: Can we pull up JX 1192, please.

Q. Dr. Harrison, do you recognize what's been marked as JX 1192?

A. Yes.

Q. Does this refresh your recollection as to any other conditions to the payment that the Family Office made with respect to the two $9 million tranches?

A. Well, we agreed when we were sitting down in Monaco in January -- and actually brought Replicate's CEO over to present to Dmitry and Yuri -- that we would put in this $9 million milestone inside the budget. Indeed, the budget that we sent, which is attached, in which they signed only has that milestone. And there it is.

But in the email of transmittal, outside the budget, Patrik Blöchlinger, the general counsel of Rigmora, adds this condition, which was news to us. And we didn't regard it as legal because it's what they want post facto, and they signed the budget.

Q. Did the Family Office ever approve new budgets that had been requested for Ascidian?

A. No.

Q. Aulos?

A. No.
Q. Nereid?
A. No.
Q. Nine Square?
A. No.
Q. So you testified a little earlier that the capital commitment at inception for Pools V-1 and V-2 was a billion dollars.
Do you recall that?
A. A billion dollars, yes.
Q. Was there any formal delineation between Pools V-1 and V-2 financially?
A. No.
Q. Do you know whether Rigmora has made contributions to those pools?
A. Yes.
ATTORNEY BERDON: I'd like to pull up PDX 1, please.
Q. Dr. Harrison, have you reviewed the source material that was used to compile the amounts set forth here?
A. Yes.
Q. Were they voluminous?
A. Yes.

Q. Were you able to commit them to memory?

A. No.

Q. So based on what we have here in front of you, can you tell the Court what the columns for "Approved Budget" and "Amount Contributed" mean?

A. Yeah. On the far left you see the list of the portfolio companies in Pools V-1 and V-2. You see Replicate in the bottom. And then you see in the fourth column over the approved budget for each company, the total budget, if there were multiple budget approvals.

And then in the next column over you see the amount that has been paid in on each of the budgets. And then you see in the final column the amount that remains of each budget that has not been called or contributed.

Q. So as of May 30th, 2025, was there about $178 million in budgeted but as-yet-uncalled capital for Pools V-1 and V-2?

A. Yes.

ATTORNEY BERDON: Taking the -- scroll down, please.

Q. Dr. Harrison, does the chart at the

bottom of this table contain information regarding Pool V-3?

A. Yes.

Q. And for Ascidian and Marengo, can you explain to the Court what that information is.

A. It's the same sort of information. You have the companies that have approved budgets remaining in Pool V-3, that's Ascidian and Marengo; the total amount of budgets approved in the fourth column over for each company; the amount that's been paid in on each budget in the next column; and then the remaining amount to be called on each budget.

Q. And if one were to sum the amount remaining on Pool V-3 with the amount remaining in Pools V-1 and V-2, did that sum to about $218 million?

A. Yes.

Q. And are you pretty confident in that math from the position of the general partner, not to the dollar, but you're confident in that math?

A. Yes.

Q. Do you also keep track of remaining budgets across pools to govern the capital calling process?

A. Yes.

ATTORNEY BERDON: Can we go to PDX 1 at page 3, please.

Q. Dr. Harrison, can you explain to the Court what this indicates in terms of budget remaining for each of those companies.

A. This is the total of the companies in Pools V-1, V-2, and V-3 listed. And the "Budget Remaining" column contains the budgets for each company that have been approved but not yet called.

Q. So putting that all together, we have about $214 million in budget remaining?

A. Yes. You said 218 before, but I think it sums to 214.

Q. I stand corrected. Thank you.

So did you have meetings in Monaco in March of 2025 to discuss the budget approval request for Aulos, Ascidian, and Marengo?

A. Yes.

Q. And what was the nature of those meetings?

A. We had had meetings in Monaco in January discussing why the budgets weren't approved, why there was no reasonable consideration of the budgets, Yuri's odd diligence request. Basically a

relationship reset meeting.

At that meeting, we also called in Nathaniel Wang, the CEO of Replicate, to scramble from the west coast of the US to Monaco to present, which he did. That was a successful process. And we all agreed that the management from each of Ascidian, Marengo, and Aulos would come at our next face-to-face meeting, and we scheduled that for March.

Q. Were their presentation materials prepared for those meetings?

A. Yes.

Q. And was there a data room opened that Rigmora could access in advance of those meetings?

A. Yes.

Q. And what was the nature of the data room?

A. Well, a data room is something you typically open for a pharmaceutical company to do due diligence, to complete a deal on a new target or something. And it contains all the IP, all the experimental data, every conceivable corporate document that you could imagine, every technical document.

And then you can regulate who enters a

data room, and you see who enters it, and it's a standard feature of getting a deal done in our space.

ATTORNEY BERDON: And just for completion, can we pull up JX 122 -- I'm sorry, 1222.

Q. Dr. Harrison, do you recognize Joint Exhibit 1222?

A. Yes.

Q. And what was it?

A. It was sending Yuri and Dmitry's assistant -- which was our way of communicating via email to Dmitry or with Dmitry -- the materials for those March meetings in advance of the meetings themselves.

Q. And were those presentation materials, in your view, highly detailed?

A. Oh, yes.

Q. Detailed enough for a reasonable person to make some decisions?

A. Yes. I would say detailed enough for an external due diligence, certainly a company with a data room. But if it's a company you own already and you know extremely well, where you've had multiple management meetings, this wasn't the first, this was a lot.

Q. And in addition to these written materials in the data room, you testified that management actually appeared?

A. Yes. We flew them to Monaco.

Q. And did that group include just employees?

A. Well, it included the senior management from each of the companies. And at the time we were also doing a review of oncology projects in the portfolio. And to do that we hired a consultant named Bill Grossman, who had been the head of oncology at Novartis and then became the head of oncology at Gilead. I knew him. He's very smart, highly qualified.

And so he was looking at our portfolio. And we offered to bring Bill to Monaco, be it just to make sure that if Yuri and Dmitry had any questions, they could ask them.

Q. And were questions asked of Mr. Grossman?

A. Yes.

Q. And did he express --

A. Dr. Grossman.

Q. Dr. Grossman. Did he express views

that could be perceived as critical of one or more of the companies?

A. Yes.

Q. What was that?

A. He was critical of the way that Aulos management had conducted the clinical trial.

Q. And did he say that those problems were irremediable?

A. No. Dmitry fastened on it and decided we needed to fire the chief medical officer. We thought that was a bit extreme, and we wanted to focus on what the actual problem was, which we did when we got back.

Q. After focusing on that problem, did you and your senior management at ATP eventually come to a path that you thought was appropriate to move forward with the funding of Aulos?

A. Yes. It was very interesting. We actually talked with -- it's a melanoma trial for treatment of melanoma that's failed everything else. And the company is doing extremely well. And the question is making sure that the criteria for recruiting the patients is correct. It was very interesting to talk to these melanoma experts and

really tighten the criteria and work with management to make sure that those became the inclusion and exclusion criteria in their clinical trial.

Q. Did you discuss that progress with Dr. Rybolovlev?

A. I tried to.

Q. And what did he say to you about his views of your ability to manage that problem on a going-forward basis?

A. In the meeting where I tried to discuss it, it was a Zoom meeting, he brushed it off. Then in a subsequent meeting, he brought up Aulos and he said, I trust your judgment, you've made me a lot of money; I understand that you want to do Aulos and we should do Aulos.

Q. Coming out of those March meetings, were budgets approved for Aulos, Ascidian, or Marengo?

A. No.

Q. After waiting a period or working on this for a period, did you actually make a proposal to the Family Office on how the existing budgets might be reallocated?

A. Yes.

Q. What prompted that?

A. It became clear to me by April -- we had submitted these budgets in December. The Replicate budget process was the only one that had gone through, and it was not normal. And there was no budgets that were being -- there were no budgets being approved.

It was clear to me -- also that the royalty financing that they were trying to do was not going to work out. They were proposing a very different structure that would involve encumbering Braeburn, the company, in a way that would not likely be acceptable.

So I looked at that and I just said, you know, I think the only capital that we're going to have, Dmitry, is the capital in the approved budgets. Why don't we just work within that and figure out how to move some of the clinical projects along to where they need to go so we'd have the definition of whether or not these should be the starting materials for the pharma company.

Q. And under that proposal, what would you be taking away from in order to direct that capital towards the clinical companies?

A. It was a reallocation of some of the

budgets from the preclinical companies to the clinical companies.

Q. Did you end up reaching agreement with the Family Office on a reallocation proposal?

A. Ultimately no. I thought we had but we did not.

Q. And from your perspective, why not?

A. Well, this -- what happened was that we had a Zoom call with Yuri and Dmitry and Anna Batarina and myself, I think it was on May 9th at this point, where I was to present the reallocation proposal. And I sort of led off with a 10-minute introduction of what it would accomplish, and then I was prepared to share screen with a spreadsheet, showing it.

And Dmitry and Yuri said no, that won't be necessary. This is moving in the right direction. Now we meet with the lawyers.

I said, that's strange. Why would we be meeting with lawyers?

Oh, we should just meet with lawyers.

I said, but usually when we do a deal like this -- and there were many -- we form some sort of a term sheet that will then become an amendment to

the fund or a side letter or some such thing. And we didn't need outside lawyers to do that. People might have that reviewed by outside lawyers, but it wasn't a necessary process.

Oh, no, no, this is very important; we need a lawyer call.

And we scheduled it for that Tuesday the 12th. I had sent several emails to Yuri and Dmitry in the interim, saying what is this lawyer call? Shouldn't we just try to do this in a normal way?

And we actually had Dan Finkelman, our GC, create basically a term sheet that would serve as the basis for what would become that reallocation amendment, or whatever you want to call it. So we wound up having this lawyer call, and I think that was sort of the beginning of the end.

Q. What about the lawyer call, from your perspective, got in the way of completion of a reallocation deal?

A. It was an ambush, literally. We got on the Zoom in good faith. We had one of our outside counsel, just to balance the fact that they were going to have outside counsel. But we didn't think anything

-- we were more curious than anything else.

Dmitry, Yuri, Patrik Blöchlinger and Anna Batarina, myself, and Mark Gordon from Wachtell and four lawyers from Latham & Watkins -- who I had never seen before, and I don't even think we made introductions -- where they just lit into me, the lawyers from Latham, saying it's obvious that you think the preclinical companies are worthless, otherwise why would you have proposed this reallocation. If they're worthless, why don't you shut them down? All of these crazy mischaracterizations.

I was shocked. Mark Gordon tried to throttle this very aggressive partner from Latham, but it was still the same thing.

And I just put up a wall. I did not say that. Those were not my words, et cetera. And it didn't go very well.

Q. So from your perspective, what was the value of the preclinical companies at that point and why were you willing to allocate budget money away from them to the clinical companies?

A. We've had a very successful translational track record, meaning we start early and

build through to clinical proof of concept. And looking at these projects that are the very projects that are created by this top-quality pharma team in the preclinical companies, they're just very strong projects, first stage. So what should happen is full budgets for the preclinical companies and full budgets for the clinical companies.

But pragmatically it was obvious that wasn't going to happen. So I did the next best thing, which is to say, look, at this stage, it would be better to advance the clinical projects, focus in on only selected preclinical projects, and bring them with a relatively small amount of money to the -- to the go/no-go decision to bring them into the clinic, which is where the real spend starts.

Q. Okay. After that lawyers call, did you end up getting some correspondence from Mr. Bogdanov?

A. Yes.

Q. And do you recall the date you received it?

A. May 15th.

ATTORNEY BERDON: Can we pull up JX 1336, please.

Q. Do you recognize --

ATTORNEY BERDON: Sorry. Can you go to the bottom email of the chain, please.

Q. Do you recognize what's been highlighted in the bottom email on the chain?

A. I recognize the email. It's an email that Yuri sent instructing us to kill the early-stage companies. And if we killed the early-stage companies, then they might consider providing budgets for the clinical companies.

Q. Well, let's just briefly take a look at the first sentence of the full text paragraph there. "The SLPs see no way for a path to commercial success for these Early-Stage Companies ...."

What was your reaction when you read that?

A. It was certainly a problematic statement, and I disagreed with it.

Q. Why did you disagree with it?

A. First of all, it was problematic because we started these companies as preclinical entities and the idea that if by "commercial success" you meant sales, it's impossible and known that they're nowhere near sales.

But commercial success for a company at this stage is a thing. It exists. You can do a corporate deal, which we have many in the portfolio. Ironically, one on this list and one that's not on this list, which have actually occurred subsequent to this email -- you can do an M&A of a company like this, and these happen. And there are many examples of early-stage companies getting bought for a fair amount of money. You can do an equity financing from the outside, which could eventually lead to a mezzanine round and an IPO for an early-stage company. And we've done those.

And in our case, if the idea is to build a pharma company with a pipeline, you could choose to fund some of these things yourself because there's value in each of these companies.

So I totally disagree.

Q. He also says that one of the reasons -- he says, "because: they have failed to meet [] milestones set out in the investment memoranda on which SLP's initial funding was premised ...."

SLP, what do you understand that to be?

A. Subject limited partner. It was a

term that Rigmora, for some reason, liked to use in legal correspondence.

Q. Did you agree that the preclinical companies' path to commercial success was hampered by their failure to meet milestones set out in an initial investment memoranda?

A. No. On the contrary. The whole point of having a team like we have is to develop the companies from the start that's represented in the investment memoranda to wherever they need to go based upon what the research programs tell them.

Q. It also says here, "there is no third party interest to invest in these Early-Stage Companies ...."

Do you agree with that?

A. No. It's not true.

Q. What type of third-party interest were you aware of at that time with respect to these companies generally?

A. There were negotiations going on with big pharma companies to do corporate deals along the lines that I've discussed, one of which has closed -- two of which have closed actually. And there has been a lot of interest from the VC market in these deals

but which has never eventuated in a financing due to the KY issues that we have faced, particularly post Ukraine.

Q. Two issues. Number one, which of the companies on this list has done a corporate deal that you're aware of?

A. Deep Apple did a corporate deal recently.

Q. And who was that with?

A. Novo.

Q. And when it was announced, was there a potential total value of that deal announced?

A. I think it was over $800 million.

Q. And going, then, to the point that you just made about KY issues. Can you be specific.

First of all, is that KYC?

A. Yes, know your client.

Q. Can you be specific about the nature of those KYC issues that have come up in discussions with potential equity investors?

A. Yes. It's plagued us and we've really tried to neutralize it in the market for years. After the Ukraine was attacked and the sanctions of Russian individuals became prevalent, we did a lot of work and

worrying with Dmitry about whether or not he would be sanctioned. He wasn't. He was correct about that. He was sanctioned by the Ukraine, but no one took that seriously. He wasn't sanctioned in the U.S. and the EU.

This didn't stop the market, namely the equity markets in the U.S., from not investing with a fund that was controlled by Dmitry's entities. And every time that we -- and we had done a lot of analysis on Dmitry. I won't go into it, but we understood that he was not going to be sanctioned.

And we would try to explain this, and the compliance departments would just shut it down. And we had term sheets that were yanked. We had financings that looked like they were about to close that were -- blew up. We had many, many discussions across the market. And it was pretty clear that we were locked in due to this problem.

Q. Another question for you -- down further in the text here it says, "The SLP's position is therefore that further funding of those Early-Stage Companies will waste the ATP Fund's assets. We understand that you hold a similar view ...."

Was that true?

A. Neither statement is true. And that was the problem in that lawyer call. They were putting words into my mouth. I didn't hold that view. I never held that view. I didn't express that view. It was their idea for me to swallow, which I wasn't having.

Q. After receiving what's been marked as -- forgive me -- JX 1336, what did you do?

A. Well, I wrote Yuri a reply saying I disagreed with everything, and here it is. And at that point, obviously, we were having serious conversations about what to do, given what was apparently a quite hostile position of the Family Office to the fund.

Q. Just for clarity's sake, you're referring to your email on JX 1336 at the top dated May 19th?

A. Well, what would you like -- I'm sorry?

Q. You talked about responding.

A. Yes, this is that email.

Q. You talked about the email that's on the top of Exhibit 1336?

A. Yes.

Q. Did you issue capital calls for funding of certain clinical and preclinical companies on May 30th, 2025?

A. Yes.

Q. Why did you issue the May 30th capital calls?

A. Fund the companies.

Q. What companies in particular?

A. I don't have the full list in my mind. But it was time to fund the portfolio.

ATTORNEY BERDON: Taking a look at JX 1622.

Forgive me for just one second.

Can we go up to JX 1622, please, and let's go to page 10.

Q. Dr. Harrison, do you recall -- taking a look at this list that starts at 5/30 with Deep Apple. Can you describe for the Court the companies that you sought capital for by calling capital on May 30th?

A. The ones that are dated May 30th. So Deep Apple, Aethon, Evercrisp, Red Queen, Apertor, Initial, and Marlinspike.

Q. And Replicate, there's one indicated

for June 1st. Was that related to the May 30th capital calls?

A. Yes. We had overcalled in error on May 30th, so we retracted that May 30th call and replaced it with a June 1st correct call.

ATTORNEY BERDON: And let's go to page 13, please.

Q. So, Dr. Harrison, does this chart represent how those capital calls compared to the remaining approved budgets as of the time?

A. Yes.

Q. How did you set the amount of capital to call for each of these companies?

A. We based it on the companies having six-month budgets from the presumptive date of the receipt of those calls.

Q. And what were you projecting could be accomplished within those six months at each of these companies? What was the goal?

A. In each case, following forward on their research plans.

Q. And on May 30th, did you also call capital for partnership expenses?

A. Yes.

Q. And did you call capital for a fee that was chargeable on a semi-yearly basis for ATLS?

A. Yes.

Q. Interesting, did you call your own management fee on May 30th?

A. No.

Q. So for any of the money that you called on May 30th, was any of that to be directed into your pocket?

A. No.

Q. At the same time as you called capital on May 30th, did you also file this lawsuit?

A. Yes.

Q. And why did you file the lawsuit?

A. After the May 15th letter from Yuri, Anna Batarina contacted me and said she had spoken with Dmitry and Yuri and she wanted to tell me something.

I said, what's that?

And she said, if you call capital, it's treason, and they will sue you.

And I said, oh. And I knew that at that point, there was no possibility of a reproachment. No possibility of any kind of

agreement.

Q. Did you believe that you had the right under the LPA to bring a lawsuit against an LP who had breached the LPA?

A. Yes, absolutely. It's in the LPA.

ATTORNEY BERDON: Can we please pull up JX 1 at 74, 75, Marco.

Q. Taking a look at what's next to (iv), here. Do you recognize this language, Dr. Harrison?

A. Yes.

Q. And what do you understand it to mean?

A. It gives me right to sue a partner who defaults.

Q. And taking a look at (iv) at the bottom, "To the fullest extent permitted by law ...." Can you just read that to the Court.

A. "To the fullest extent permitted by law, each Limited Partner hereby specifically agrees that, in the event such Limited Partner violates the terms of this Agreement, such Limited Partner shall not be entitled to claim that the Partnership or any of the other Partners are precluded, on the basis of any fiduciary or other duty arising in respect of such Limited Partner's status as such, from seeking any of

the remedies permitted under this Agreement or applicable law."

Q. Did the LPs pay the capital calls that were served on May 30th?

A. No.

Q. And did ATP, to your understanding, issue notices saying that the LPs were in breach of their agreement to contribute capital in response to those calls?

A. Yes.

Q. And are you seeking a finding that the LPs are in breach of that agreement?

A. Yes.

Q. What's the current status of the preclinical companies, Dr. Harrison?

A. They are in desperate condition. We've had to do massive layoffs. We've had to move companies to -- out of facilities, heavy negotiations with landlords, sales of capital equipment, consolidations, reduction of research programs.

In one case we kept a program that bloomed from a platform technology, but we had to cede that technology back to the source institution. Very difficult relationships with founders. You know, a

mess.

Q. If funding were to be made available to you, for example, by the end of the year, would you be able to reconstruct those companies?

A. Yes. We've managed to keep alive the critical projects that we thought were valuable, even at the beginning of the reallocation proposal, in the form of key employees in most of the companies that retained the knowledge. In some cases, there's tiny amounts of research that are ongoing. And so, yes, absolutely, they can be readily reconstituted. I don't know for how long, but yes.

ATTORNEY BERDON: I pass the witness.

ATTORNEY SELDEN: Good morning, Your Honor. Shannon Selden of Debevoise & Plimpton. We have some binders for the Court and the witness. May we approach the bench and hand out those binders?

THE WITNESS: May I ask a question? Are they also going to be on the screen, or do I use the binder?

ATTORNEY SELDEN: We will show them both on the screen. But you can use the binder, if that's more convenient for you.

THE WITNESS: Thank you.

ATTORNEY SELDEN: Your Honor, am I correct in thinking that we'll take a break for lunch at 12:30?

THE COURT: Correct.

CROSS-EXAMINATION

BY ATTORNEY SELDEN:

Q. I was going to say good morning, Dr. Harrison, but I see it's afternoon.

Good afternoon, Dr. Harrison.

A. Good afternoon.

Q. Do you recall Mr. Berdon showed you a demonstrative with budgets and commitments broken down by pool?

A. Yes.

Q. Setting aside the math for a moment, that demonstrative was based on your understanding of the LPA and its references to pools, wasn't it?

A. It was based upon my understanding of the budget commitments that have been signed in, which we keep records of in that ATP.

Q. The demonstrative that you looked at with Mr. Berdon is based on your understanding of the LPA, its amendments, and the budget requests and commitments; is that correct?

A. Yes.

Q. Dr. Harrison, you understood that there was a limit to the amount of capital that had been committed to the fund; correct?

A. Yes.

Q. You understood that the fund could not invest more capital than it had committed to it; correct?

A. Correct.

Q. As of May of 2023, you knew that Dr. Rybolovlev and the Family Office intended to cap their investment in the fund at $2.5 billion; correct?

A. Dmitry had informed me that that was his wish, but that is not reflected in the agreements that had been signed.

ATTORNEY SELDEN: Could you please play clip 96 from Day 3 of Dr. Harrison's deposition at page 243, lines 11 to 15.

(A video clip was played as follows:)

Question: Does that refresh your recollection that in May of 2023 Dr. Rybolovlev and the Family Office informed you that they intended to cap the investment at $2.5 billion?

Answer: Yes.

(End of video clip.)

BY ATTORNEY SELDEN:

Q. At that point in May of 2023, you didn't do anything to assess the amount by which the fund's commitments to invest in its portfolio companies exceeded $2.5 billion; correct?

A. I think when Dmitry informed me that he wished that it be capped at 2.5 billion as opposed to the 2.9 or so that it actually summed to, we were very interested in, as usual, creating accommodations. So we did go back and try to figure out, is there any way to shoehorn everything we're doing into something like 2 1/2 billion dollars? I think I remember that I couldn't possibly get it down to less than 2.7. We kept trying and trying. And we talked about that.

ATTORNEY SELDEN: Could you please play clip 70 from Day 3, page 244, line 22, to page 245, line 1.

(A video clip was played as follows:)

Question: Did you do anything to assess the amount by which the fund's commitments to invest in its portfolio companies exceeded $2.5 billion?

Answer: No. Not specifically, no.

(End of video clip.)

BY ATTORNEY SELDEN:

Q. Dr. Harrison, you don't recall calculating the difference in dollars between 2.5 billion and the amount of dollars that the fund had committed to invest in its portfolio companies as of May 2023; correct?

A. The specific answer to your question is no, because I was calculating something else.

Q. And you didn't do that calculation at any other point in time; correct?

A. Could you clarify the calculation that you mean?

Q. Dr. Harrison, you do not recall calculating the difference in dollars between the $2.5 billion cap that Dr. Rybolovlev informed you of and the amount of dollars that the fund had committed to invest in its portfolio companies; correct?

A. We calculated the aggregate of commitments and approved budgets and tried to bring them within range of what Dmitry said he wanted, but we were unable to do so.

ATTORNEY SELDEN: Could you please play clip 71, which is from Day 3, page 247, line 25,

to 248, line 4.

(A video clip was played as follows:)

Question: Did you calculate the difference in dollars between $2.5 billion and the amount of dollars that the fund had committed to invest in its portfolio companies as of May of 2023?

Answer: I don't recall.

(End of video clip.)

BY ATTORNEY SELDEN:

Q. And you didn't do that calculation at any other point in time, did you, Dr. Harrison?

A. I honestly don't recall what -- doing exactly what you're asking. But I repeat that we struggled with Dmitry's request over months, over multiple discussions, to attempt to fit everything into 2 1/2 billion, and it was impossible.

Q. Dr. Harrison, I'm afraid we have limited time today, and I'm asking you yes/no questions. So I'd ask you to listen to my question and answer that question. And if you have other testimony to give, I'm sure Mr. Burden will have an opportunity to redirect. But I am sensitive to the clock.

Dr. Harrison, as of last week you

didn't know the total amount of money that the fund had contractually committed to invest in its portfolio companies; correct?

A. I don't keep that as a running sum in my head.

Q. In October 2023, ATP's general counsel, Dan Finkelman, wrote you an email discussing the fund's unfunded commitments to its portfolio companies; correct?

A. I'm sorry. When was that?

Q. October of 2023.

A. I don't know. I don't remember.

ATTORNEY BERDON: Your Honor, as Your Honor knows, there's been a roll-off production of otherwise documents that were claimed as privileged. And we would ask that they be treated as highly confidential in this proceeding because, even if used in this proceeding among the parties, they will still retain privilege in Cayman under Cayman law as long as they are not disclosed to the public.

So we would ask that the courtroom be sealed during any questioning relating to otherwise privileged information that was in the roll-off production.

ATTORNEY SELDEN: Your Honor, paragraph 25 of the pretrial order governs the use of confidential or highly confidential information in this proceeding. It requires the parties to meet and confer in advance of trial, which defendants attempted to do. We asked plaintiffs to de-designate this material by letter dated September 29, by letter dated October 8, and by chaser email dated October 12.

Plaintiffs have declined to engage with us with respect to the reduction in designation of that material, and did not raise this concern about closing the courtroom in advance.

Paragraph 25 of the pretrial order further provides that if the parties are unable to reach agreement -- which we had very much hoped to do -- the parties seeking to maintain highly confidential information throughout trial should seek an order from the Court, which plaintiffs have not done in advance of trial.

So we would ask, including for the interest of time, to be able to use this information, which we understand is subject to a privilege waiver publicly and with the witness.

ATTORNEY BERDON: Your Honor, just for

completeness of the record, we did ask for a meet-and-confer on Monday in a letter that was sent, and I don't believe that one was made available to us.

THE COURT: So I understand Mr. Berdon's request made just now to be in the motion that was contemplated in the pretrial order. Is that wrong?

ATTORNEY SELDEN: We had expected, Your Honor, that if plaintiffs were going to raise the objection and seek to close the courtroom, that they would have raised that in response to one of the three letters that we had sent them prior to October 12th, or at the very latest going into this hearing.

I think there has been a privilege waiver with respect to these documents. They have been used in depositions. They have been produced. They are among the rest of the joint exhibits on the list. And we think it's appropriate to use them in this proceeding.

I also think, given the limited time again, Your Honor, and the number of issues and, frankly, the amounts and nature of the claims at stake, it would be appropriate if we could use them with the witness and move quickly through them.

THE COURT: I don't think he's objecting to your use. I think he's objecting to using them publicly in a way that would undermine the privilege objections or privilege assertions in other proceedings.

What is your response to that?

ATTORNEY SELDEN: My response to that, Your Honor, is perhaps we could stipulate that we will use the documents in open court in this trial proceeding. And the effect of that use in this proceeding, to the extent that it has an implication on the Cayman privilege waivers or evidentiary rules in the Cayman court, I think the Cayman court can adjudicate that if and when those issues arise, and Your Honor should leave that to the Cayman judge and let the documents come in here. I think we can --

THE COURT: So I hear you saying that you want to stipulate that the Cayman court will resolve privilege issues there.

ATTORNEY SELDEN: Yes, that the Cayman court decide Cayman privilege issues.

THE COURT: You don't need to stipulate to that. The Cayman court will resolve Cayman privilege issues.

The question is whether the use of those documents here will affect their arguments as to privilege in Cayman. I hear Mr. Berdon saying it will. And his solution is that we close the courtroom when you want to use them.

What is your response to that?

ATTORNEY SELDEN: My response to that is that there has been a privilege waiver with respect to these documents and they should be used in open court like any other nonprivileged document. That they were -- many of them -- improperly designated as highly confidential in the first instance, improperly designated as privileged in the second instance. And those improper designations should not now be a bar to their use in this public proceeding.

THE COURT: Correct me, it's been awhile. I thought that the argument you made as to these documents was that your client was within the scope of privilege?

ATTORNEY SELDEN: Yes, I think there are a number of arguments that we made with respect to these documents, Your Honor. One of which is that our client is within the scope of the privilege and so they shouldn't have been designated privileged in the

first instance.

Secondly, that there were over-designations of material that was not privileged at all as to anyone.

And third, that there are documents designated "Highly Confidential" which ought not to be highly confidential.

So I think there are layers of objection to many of these documents, none of which, frankly, Your Honor, I think require sealing the courtroom. The documents that we propose to use relate to a dispute between these parties that is many years in the making. The document I am about to show Dr. Harrison, for example, is from October of 2023. I don't think that is relevant to or prejudices any ongoing business concern or the companies or the other kinds of sensitive, live, trade secret, business decision, public information.

THE COURT: That doesn't speak to whether they're privileged. So if a document -- if the reason why -- if there is an argument that the reason why your client received the document in discovery here is because your client's within the scope of privilege, that doesn't eliminate the

protections of that document to the rest of the world. Right? It means that your client can see it. But there is a risk that disclosing it in open court could undermine arguments that the privileged information your client's entitled to see is no longer confidential and, thus, no longer privileged.

So I see the concern here. I don't know whether the document you're discussing now or about to show the witness falls into that category. But if it does, I think the solution is to seal the courtroom and for you all to identify who in the courtroom is within the scope of privilege so that showing it doesn't blow privilege. So I'm not sure how we do that now. Maybe you want to talk a break and do it, or maybe you want to talk about it over the lunch break. Either way, I'm open to.

ATTORNEY SELDEN: Thank you, Your Honor.

I would suggest that, in the interest of time, we skip ahead and I'll proceed with questions that don't implicate those documents, and then we can discuss during the lunch break whether and how to seal the courtroom and who's within the scope of privilege.

Would that be acceptable, Your Honor?

THE COURT: That works, yes.

ATTORNEY SELDEN: Thank you, Your Honor.

BY ATTORNEY SELDEN:

Q. Dr. Harrison, on your direct with Mr. Berdon, you discussed Rigmora's obligation to discuss budgets in good faith following the entry of Amendment 22; correct?

A. Correct.

Q. And following Amendment 22, on Christmas Eve or December 24, 2024, you sent Dr. Rybolovlev a budget request for four companies; is that right?

A. Correct.

Q. And it's fair to say that since those companies had been founded, the fund had contributed tens of millions of dollars to them; is that right?

A. Yes.

Q. And when sending the budget request, you informed Rigmora that you had set up data rooms for them to access; is that right?

A. Yes.

Q. You expected Rigmora to review the information provided in the data rooms and ask

questions; right?

A. No.

Q. You set up data rooms containing supportive materials with the new budgets that you did not expect Rigmora to access?

A. I doubted very highly whether they would review them. We did it to make sure they understood that after the settlement agreement we were being radically transparent.

ATTORNEY SELDEN: Let's put up JX 1107, if you will.

Q. This was the response that Mr. Bogdanov sent to your December 24, 2024, budget request; correct?

A. Yes, for Replicate.

Q. Mr. Bogdanov replied on January 5th after the holidays; is that right?

A. Yes.

Q. Dr. Harrison, do you recall that you testified that Replicate had pivoted from oncology to a rabies vaccine over the course of the fund's investment in that company?

A. Yes.

Q. It's not bizarre for an investor to

have questions about that change in strategy from oncology to rabies, is it?

A. It's bizarre if the investor already knew about it and approved the budget that enabled it, in my opinion.

ATTORNEY SELDEN: If we could turn to page 3 of Exhibit 1107.

Q. That's the list of questions regarding Replicate; correct?

A. Correct.

Q. It's your position that these questions didn't constitute a bona fide diligence request; correct?

A. Correct.

Q. And it's your position that Mr. Bogdanov's questions did not have any diligence logic in assessing the merits of the companies; correct?

A. Essentially, yes.

Q. Let's look at that list of questions.

At paragraph 5 in the third sentence, Mr. Bogdanov asks, "After four years, could you please outline the main reasons for shifting RBI-4000 and RBI-5000 from oncology to infectious disease

indications?"

Do you see that?

A. Yes.

Q. In question number 6, Mr. Bogdanov asked, "In the 2021 Replicate memo, the team stated: 'The profile of Replicate's first product is highly differentiated ....'"

Then later he goes to to ask, "Currently, the company has a substantial share of indications related to infectious diseases: [] Does this suggest that the company has lost its differentiation and is now operating in a more competitive environment, as was suggested in 2021?"

In 6.3 he asks, "How has the company's technology evolved over the past four years compared to its main peers?"

Do you see those questions?

A. Yes.

ATTORNEY BERDON: Object to the form to the extent that the next question is going to be lumping, compound.

THE COURT: We'll see what the next question is. Please continue.

BY ATTORNEY SELDEN:

Q. The next question is, Dr. Harrison, in your view, these questions from Mr. Bogdanov constituted an obstructionist tactic; is that correct?

A. The totality of these diligence questions did, yes.

Q. In your view, the diligence questions were sent to prevent and avoid funding a company that the Rigmora LPs, in good faith, were obligated to consider a budget for; is that right?

A. Yes.

Q. But Rigmora, in fact, agreed to provide bridge funding for Replicate before receiving answers to any of Mr. Bogdanov's diligence questions; correct?

A. Yes, that was an emergency effort. We suggested that Replicate would go out of business while we were resolving the issue of these diligence questions. And we suggested a million-and-a-half bridge, to which the Rigmora LPs agreed.

Q. And then a month later, Rigmora approved an $18 million budget increase for Replicate; correct?

A. Correct.

Q. And the $18 million budget increase

that Rigmora approved was more than the $11 million you had initially requested on December 24th, wasn't it?

A. Technically correct.

Q. Let's talk for a moment about what information ATP provided to the Rigmora LPs in connection with their request to make an investment.

Prior to approval of a portfolio company deal by the fund, a primary deal sponsor from ATP was responsible for preparing a thorough investment memorandum; is that right?

A. Yes.

Q. Your view was that the investment memorandum should include an operating plan for the portfolio company; correct?

A. Yes.

Q. Another thing the GP provided to the Family Office was the background and precedent for their approach to any particular company; correct?

A. Yes.

Q. The investment memoranda provided for a tranche investment scheme gated by milestones; correct?

A. The investment memoranda provided for

a tranched investment scheme, and the then-current thinking on what the company would achieve over time.

Q. One of the purposes of that tranched investment scheme was to derisk ATP's investment; correct?

A. All tranched investment schemes do that, or intend to.

Q. Including the tranched investment schemes included in the investment memorandas for the portfolio companies that ATP sought funding for; correct?

A. May I answer the question in my way, or do you just want a yes or no?

Q. I'd like a yes or no.

A. Yes, correct.

Q. After the fund's initial investment, you frequently pivoted away from the plans for the portfolio companies that had been presented in their investment memoranda; correct?

A. Technically correct. It's not that we tried to pivot. It's that the companies had research programs that suggested to us that the best way to manage them was to make changes.

Q. When that happened and the company

departed from the plans presented in its investment memoranda, you didn't update the investment memoranda provided to the Family Office; correct?

A. No, we did not.

Q. In fact, you've repeatedly said that how the evolution of a project relates to its business plan or its investment memorandum is irrelevant; right?

A. I wouldn't call it irrelevant; I would call it a starting point. But where it is in the middle of its investment cycle, it can't be predicted at the time of the investment memo. It's the look at that time, the view at that time.

ATTORNEY SELDEN: Could you please play clip 106, Day 3, page 282, line 17, to 283, line 23.

(A video clip was played as follows:)

Question: You were uncomfortable going to founders and companies and reminding them that in their SPAs there were milestones that had to be achieved before funding would be released?

Answer: As I have said over many hours with you, Shannon, that is simply not how it works in this market where you're developing drugs

from new technologies working with teams of scientists of various stripes. It is simply not how it's done.

You work in a way that is enabling and that understands that research brings forward different results, and you work with them and attempt to push things forward.

And as I've said repeatedly, based upon experience, often a project can look like it's not going well, and you look at it differently and you change things and it's going well. And as I've said repeatedly, how that evolution relates to a business plan or an investment memo that occurred at the outset of that company's life is irrelevant.

(End of video clip.)

ATTORNEY SELDEN: We have stopped that testimony in the middle of Dr. Harrison's answer, but -- to avoid raising any issues with respect to confidentiality or privilege.

Your Honor, I would suggest that we break a minute or two early for lunch and take up the sealing issues after that. I think that likely the most efficient thing will be to simply seal the courtroom for the balance of Dr. Harrison's testimony after lunch. But let me consult with my team, if

that's acceptable to Your Honor.

THE COURT: Sure. We'll resume at 1:30. Thank you.

(Lunch recess taken at 12:25 p.m.)

(Resumed at 1:30 p.m.)

THE COURT: Please be seated. Thank you.

So what did you work out?

ATTORNEY SELDEN: Good afternoon, Your Honor. We have consulted with plaintiff's counsel. We are happy to seal the courtroom. I apologize for any confusion. I didn't know plaintiff's counsel had wanted to do that before this morning, but we are happy to seal the courtroom.

We have asked from our team anyone outside the privilege to leave. So they shouldn't be here, but we'll pause for a moment.

THE COURT: Yeah, so there's a lot of people in the courtroom. Is everyone in the courtroom within the scope of privilege?

ATTORNEY SELDEN: For defendants, Your Honor, I can say that we are. There are indeed a number of lawyers here, I'm afraid. But everyone here has been checked and is within the scope of privilege. And I've consulted with Mr. Berdon as to that question.

Your Honor, while plaintiff's counsel caucuses, I would just note the interpreter is here.

I believe the interpreter is authorized.

THE COURT: Yes.

THE INTERPRETER: Your Honor, I'm a certified court interpreter with the State of Delaware and I'm considered to be a court officer.

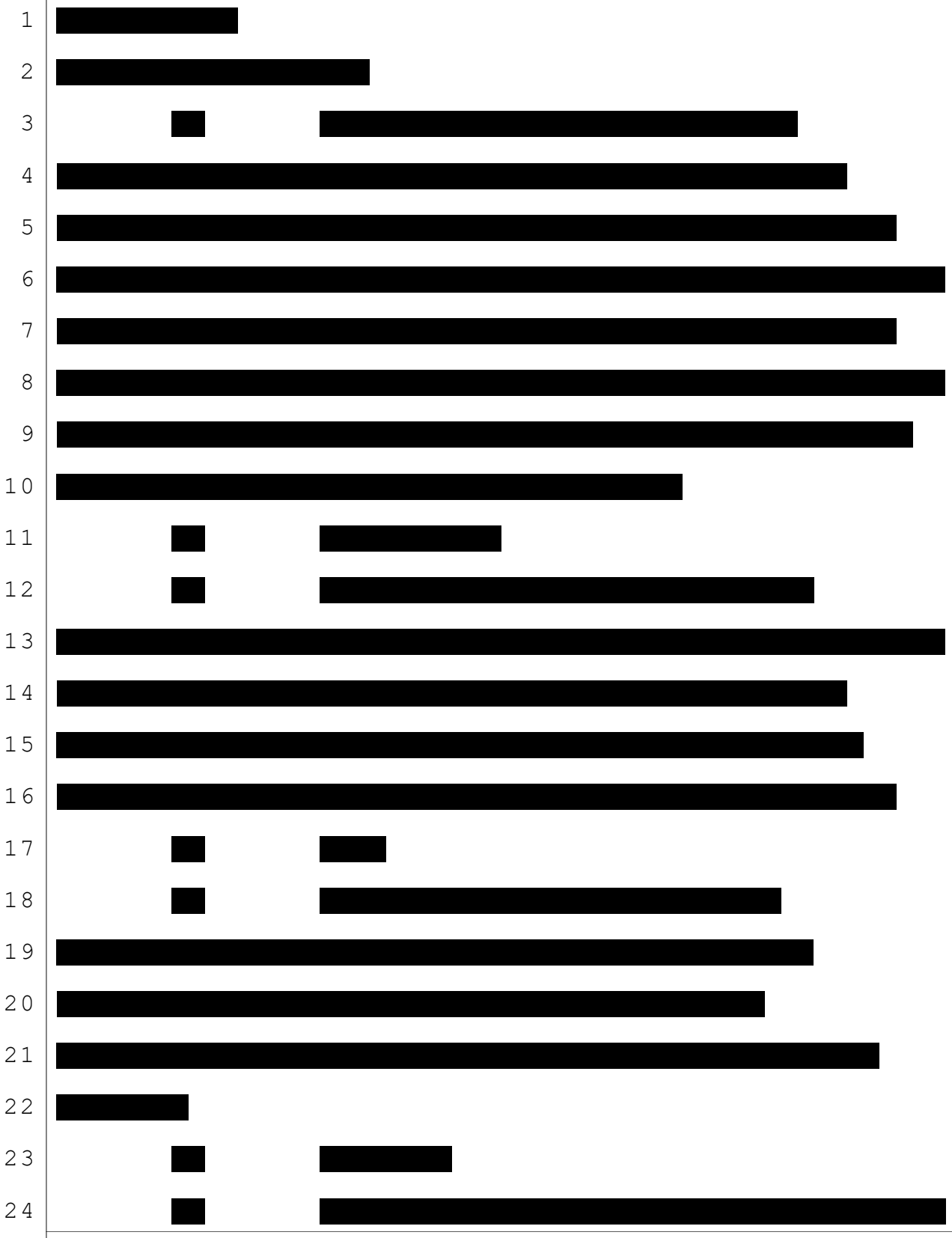
THE COURT: Yes. He's allowed.

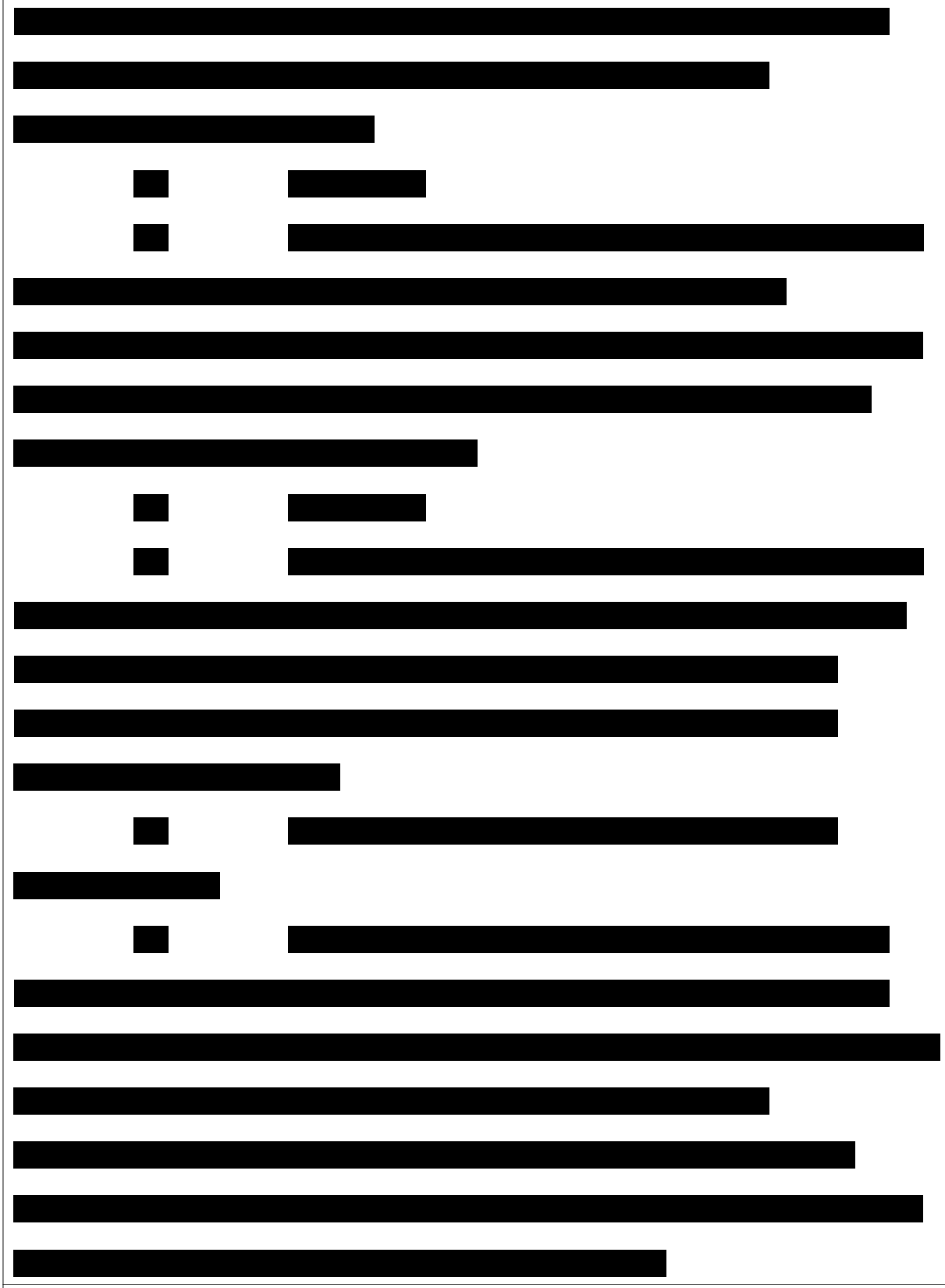
ATTORNEY SELDEN: Great. Thank you.

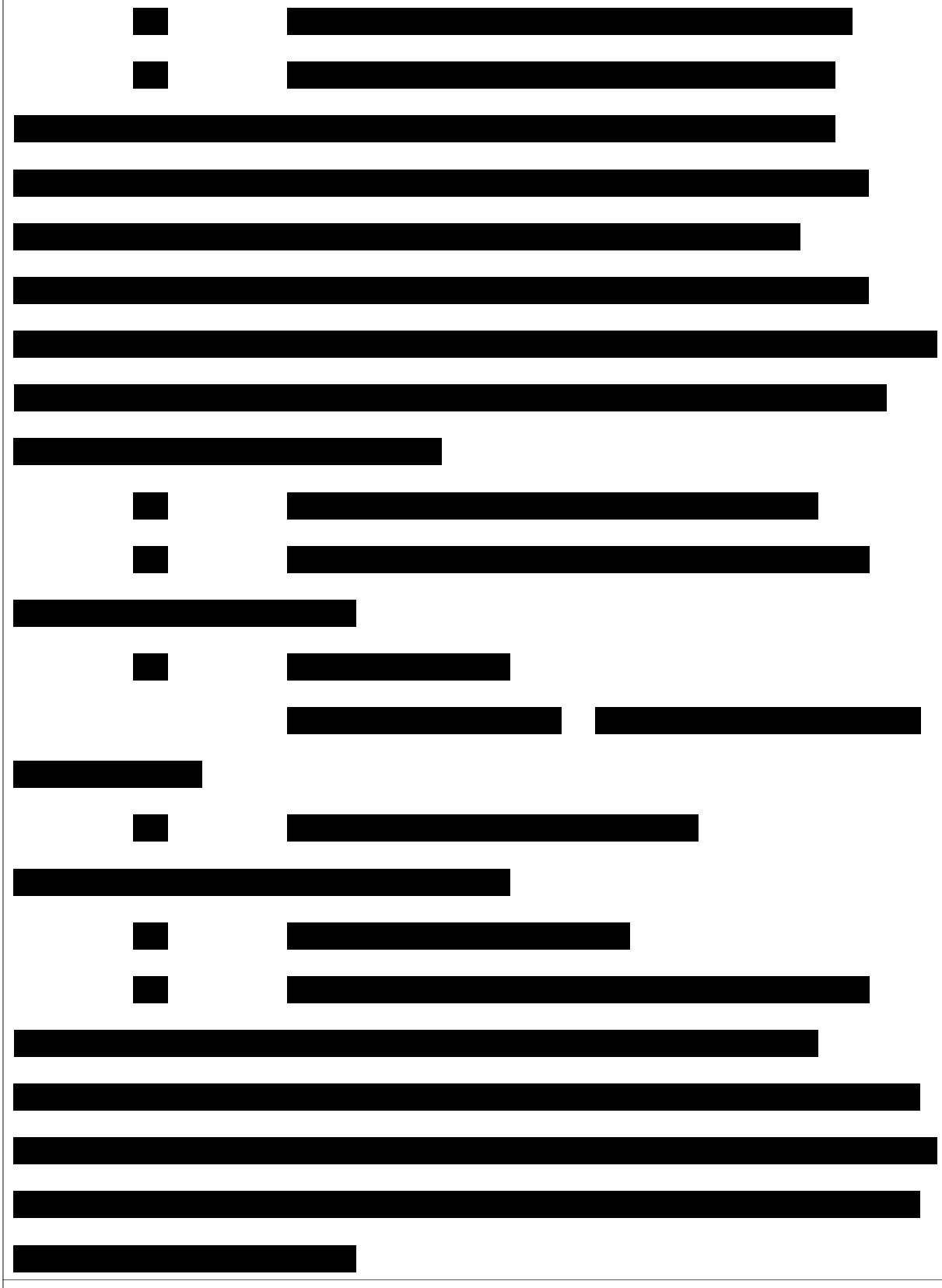
THE COURT: Shall we proceed?

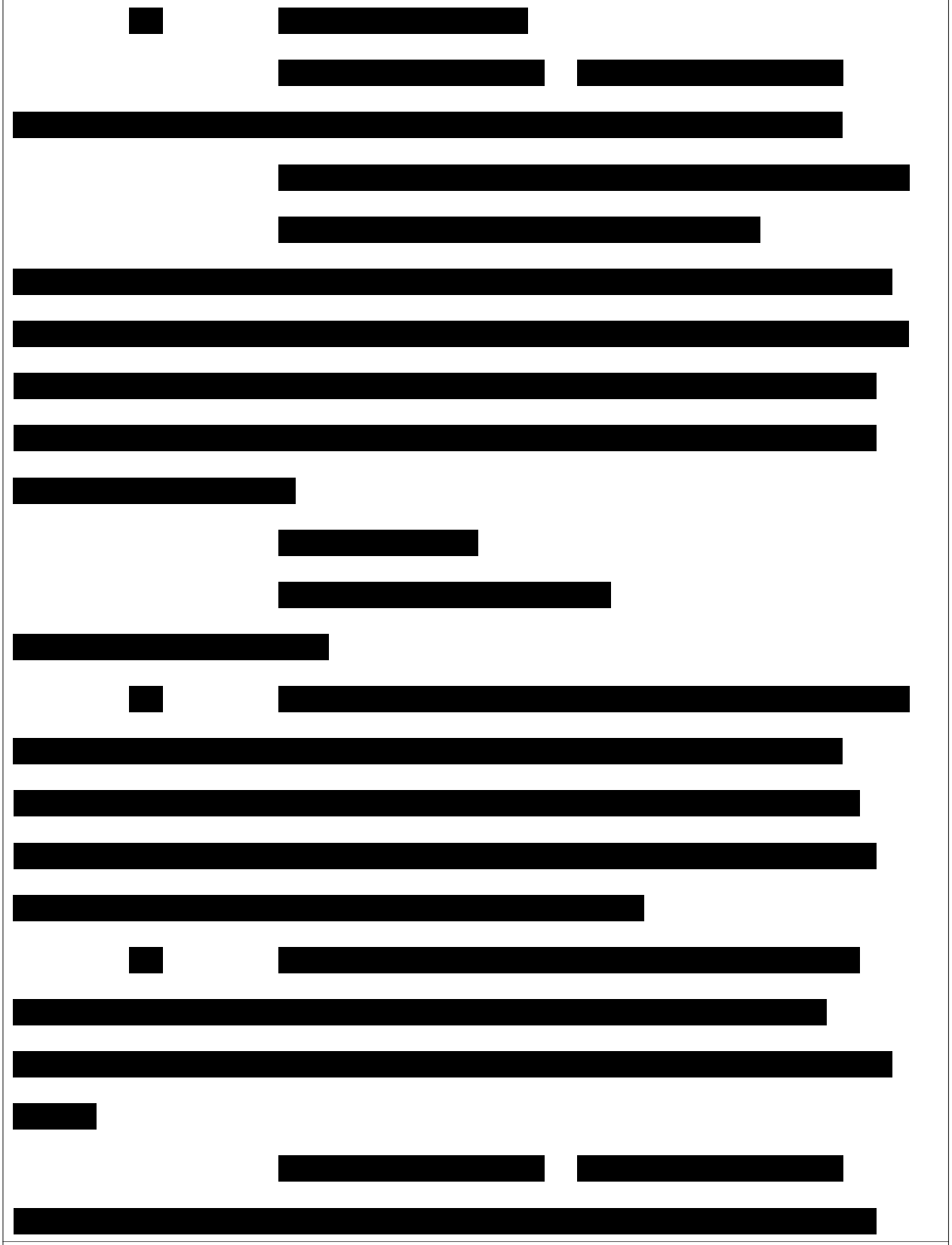
(This portion of the record was deemed confidential and the courtroom was cleared.)

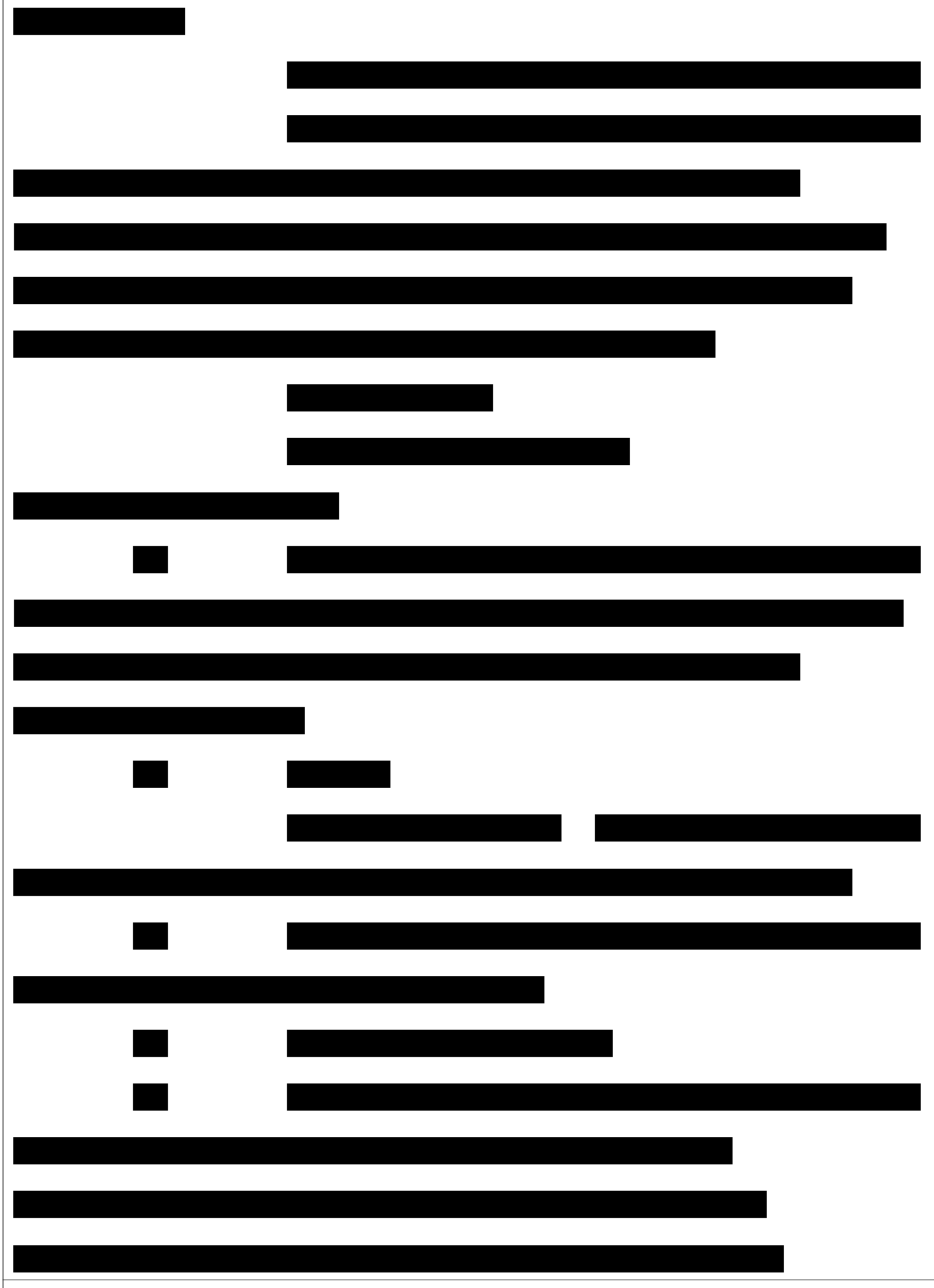
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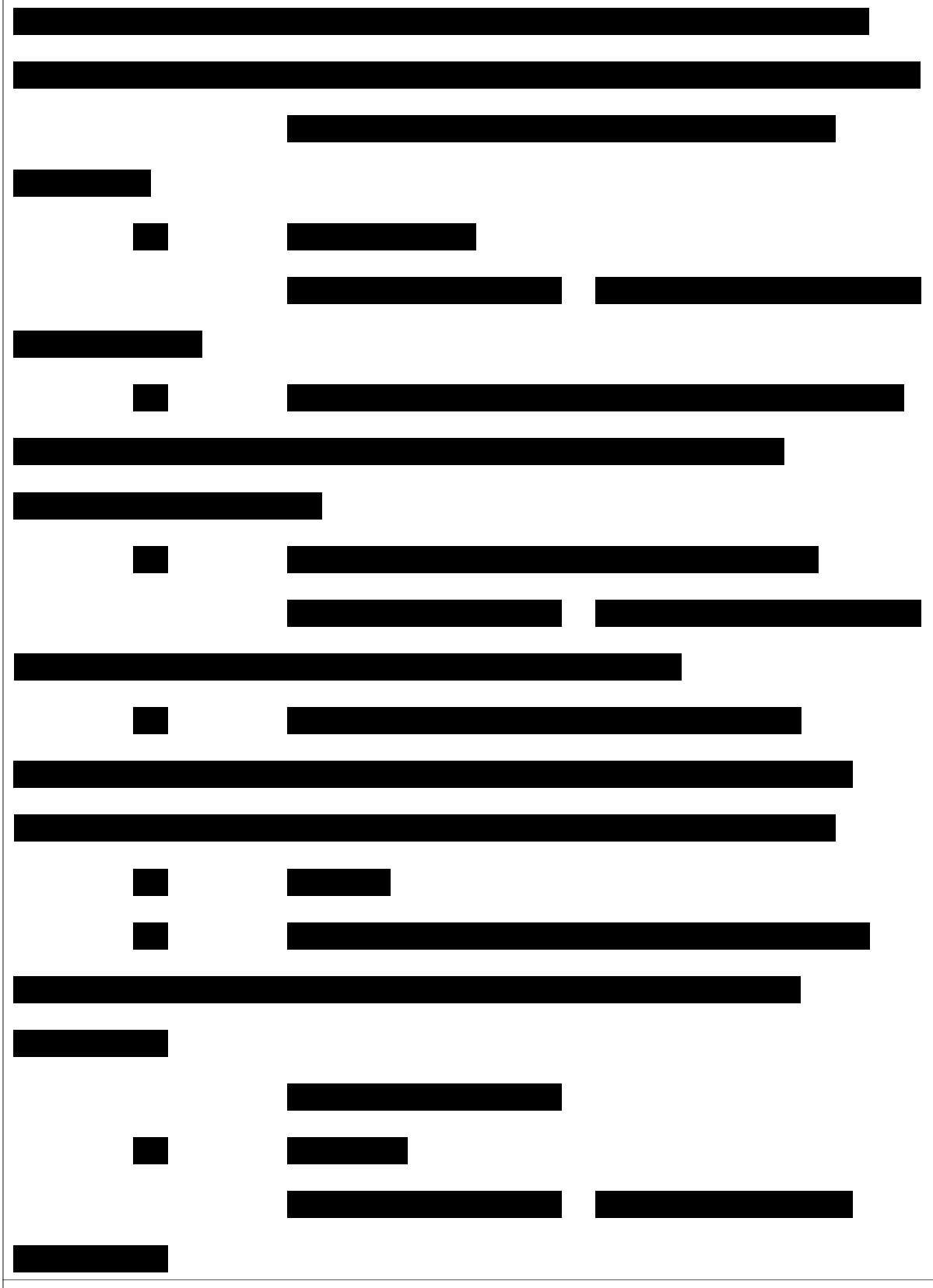


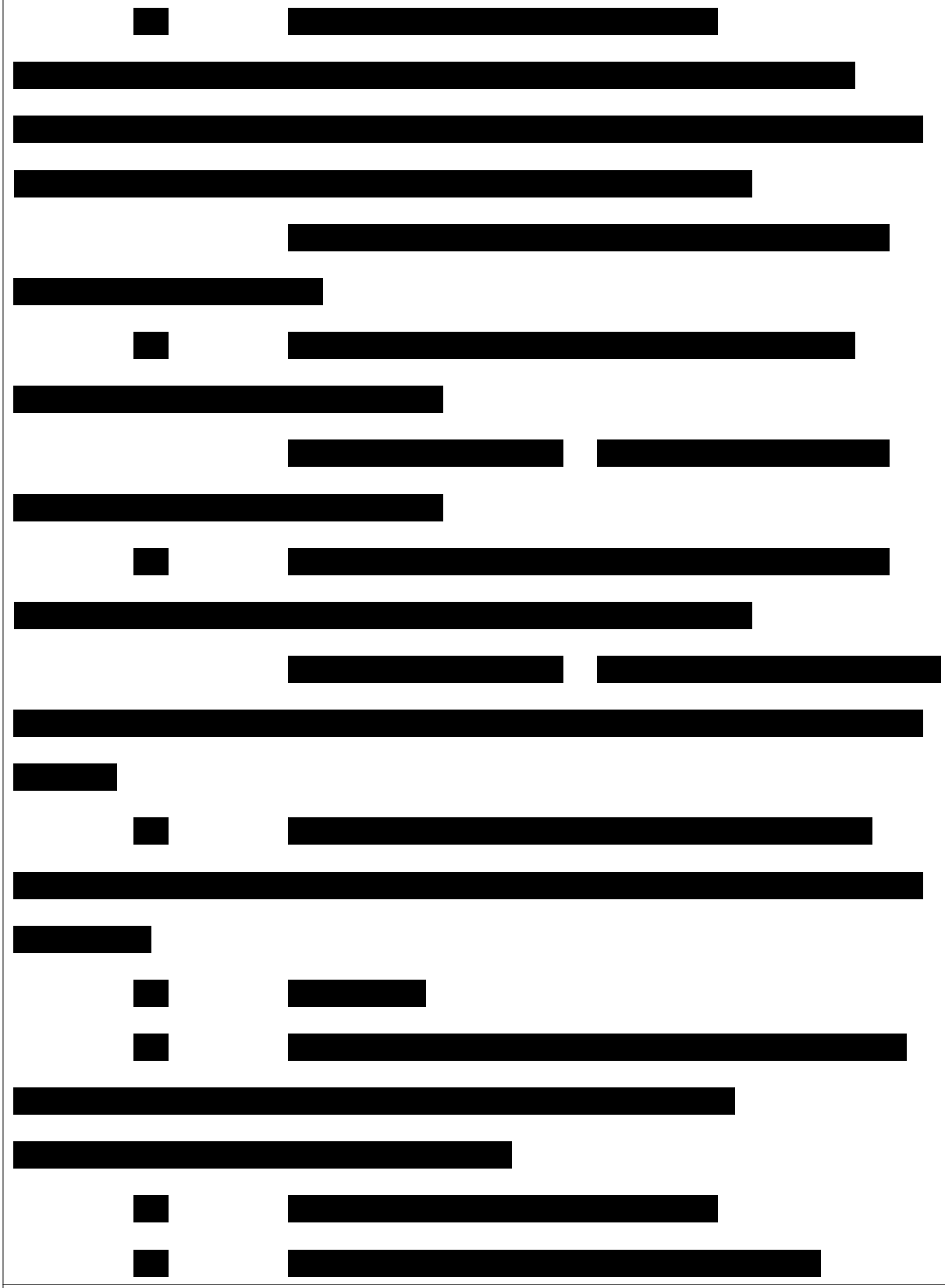


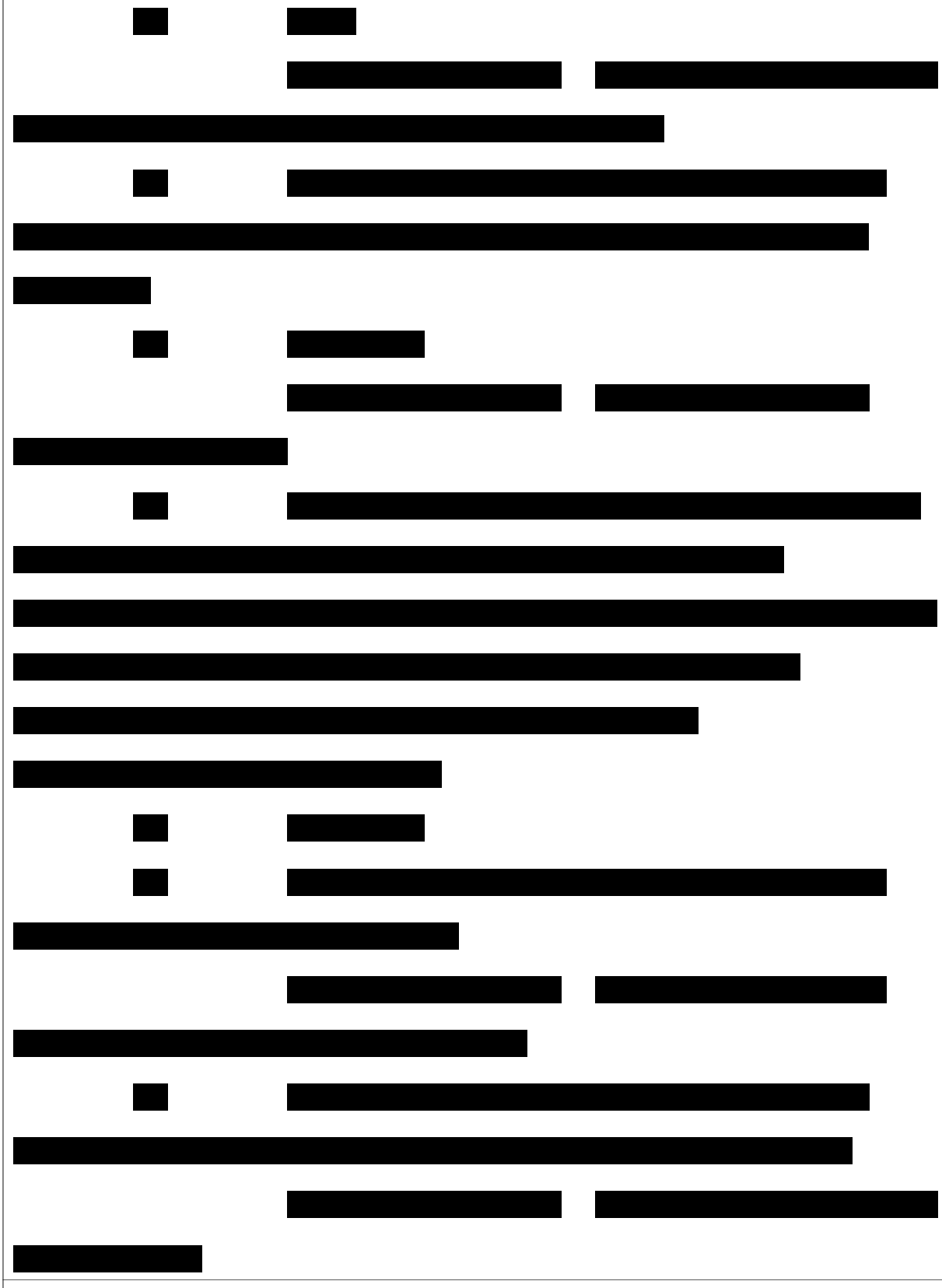


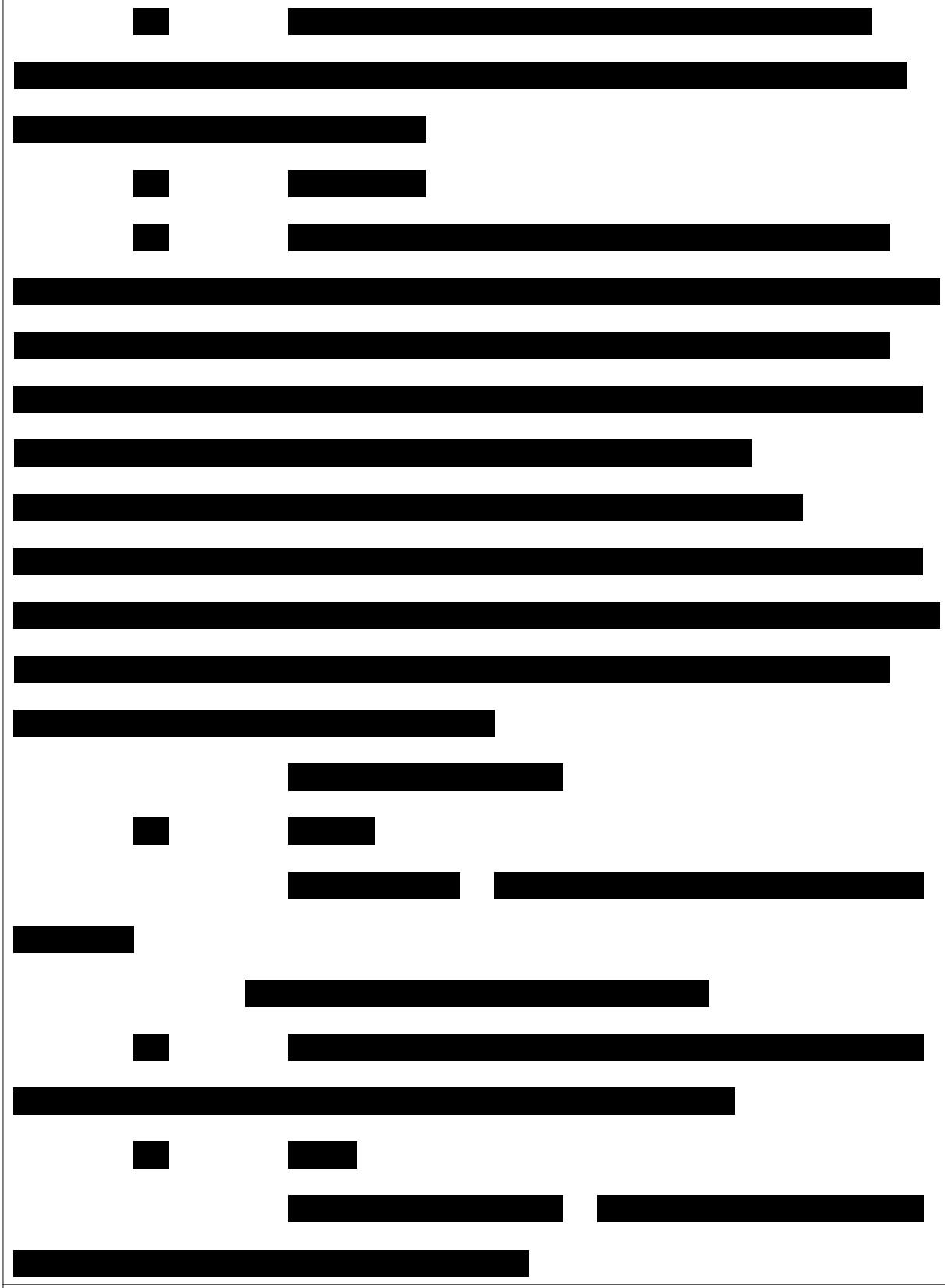


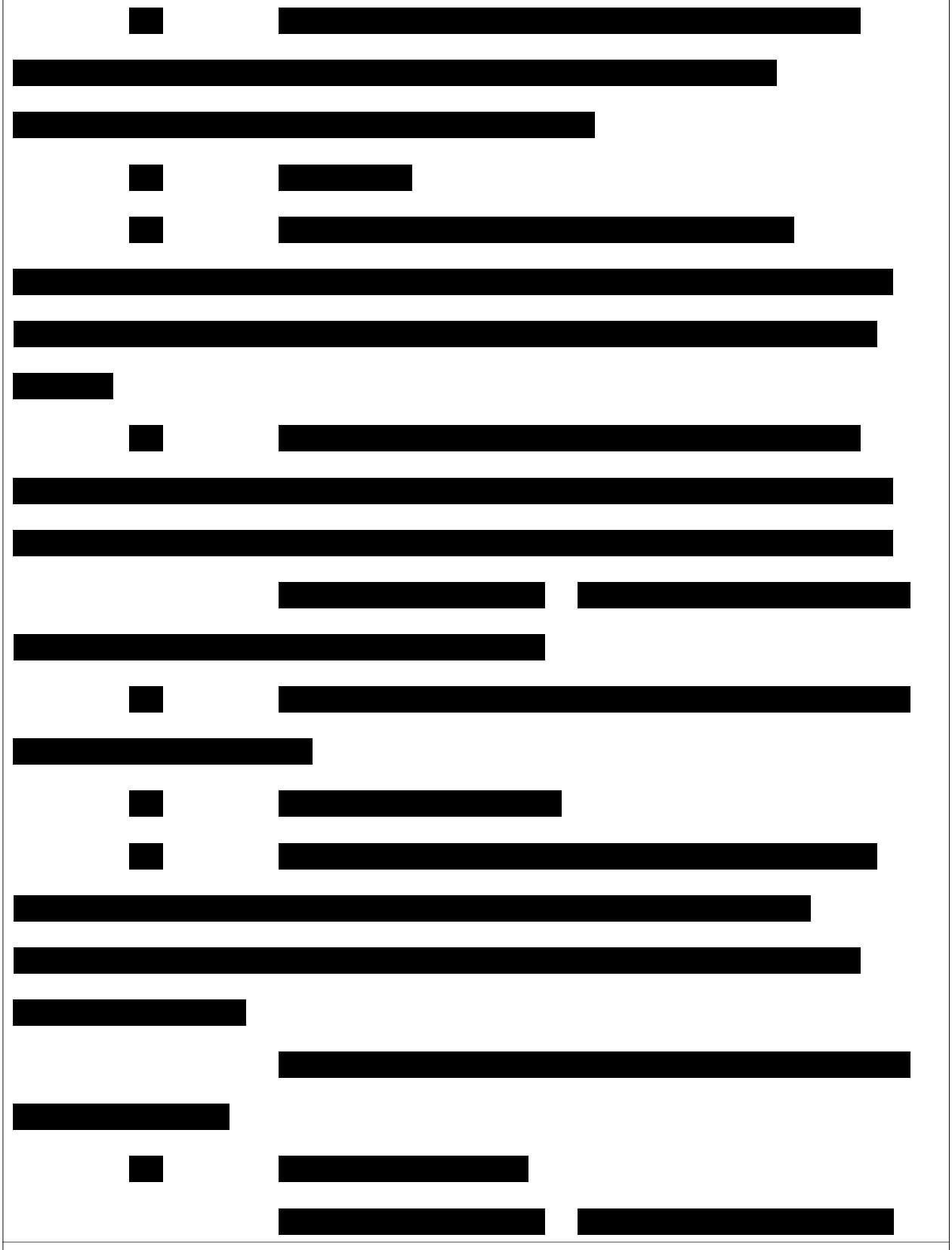


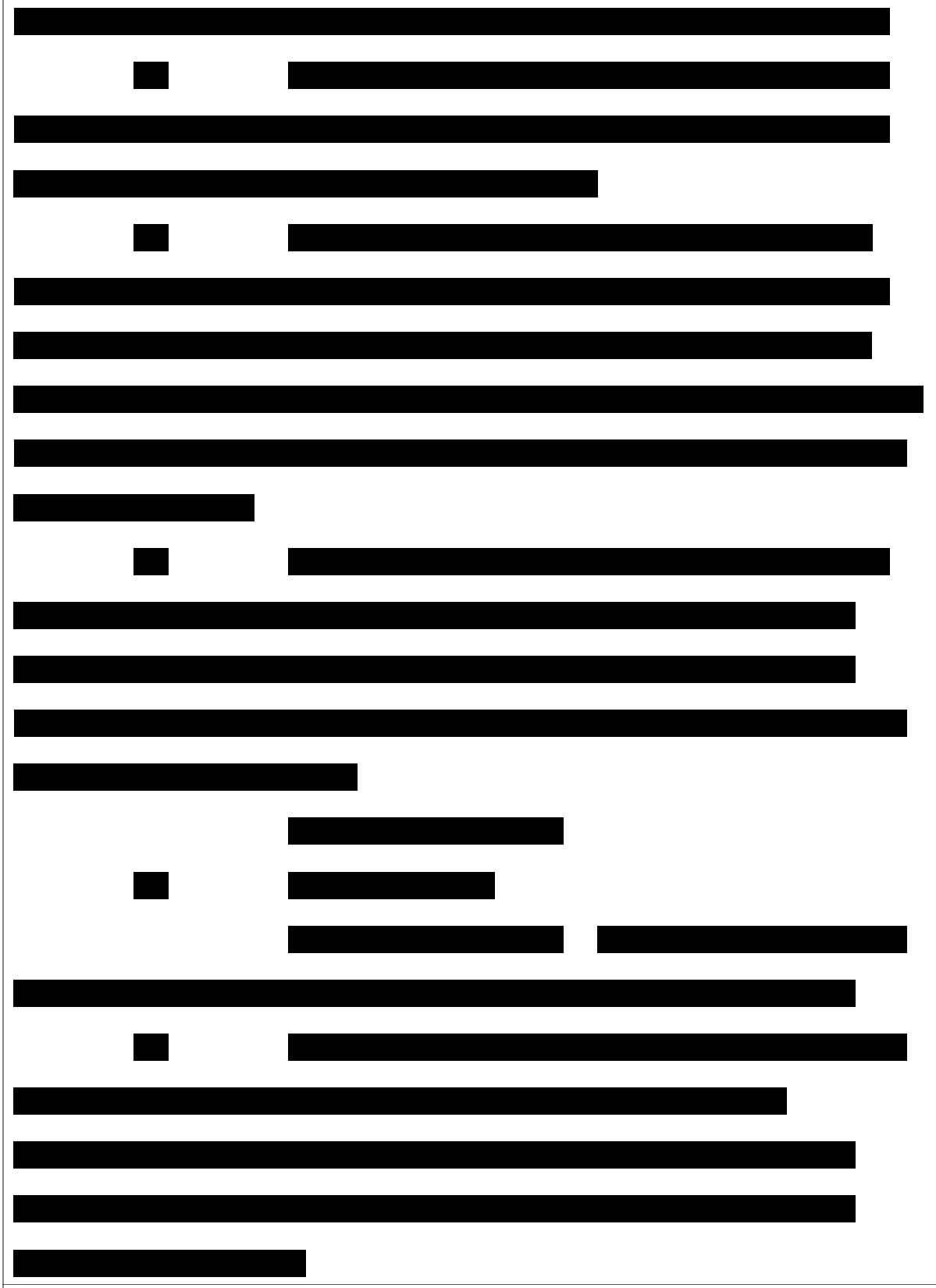


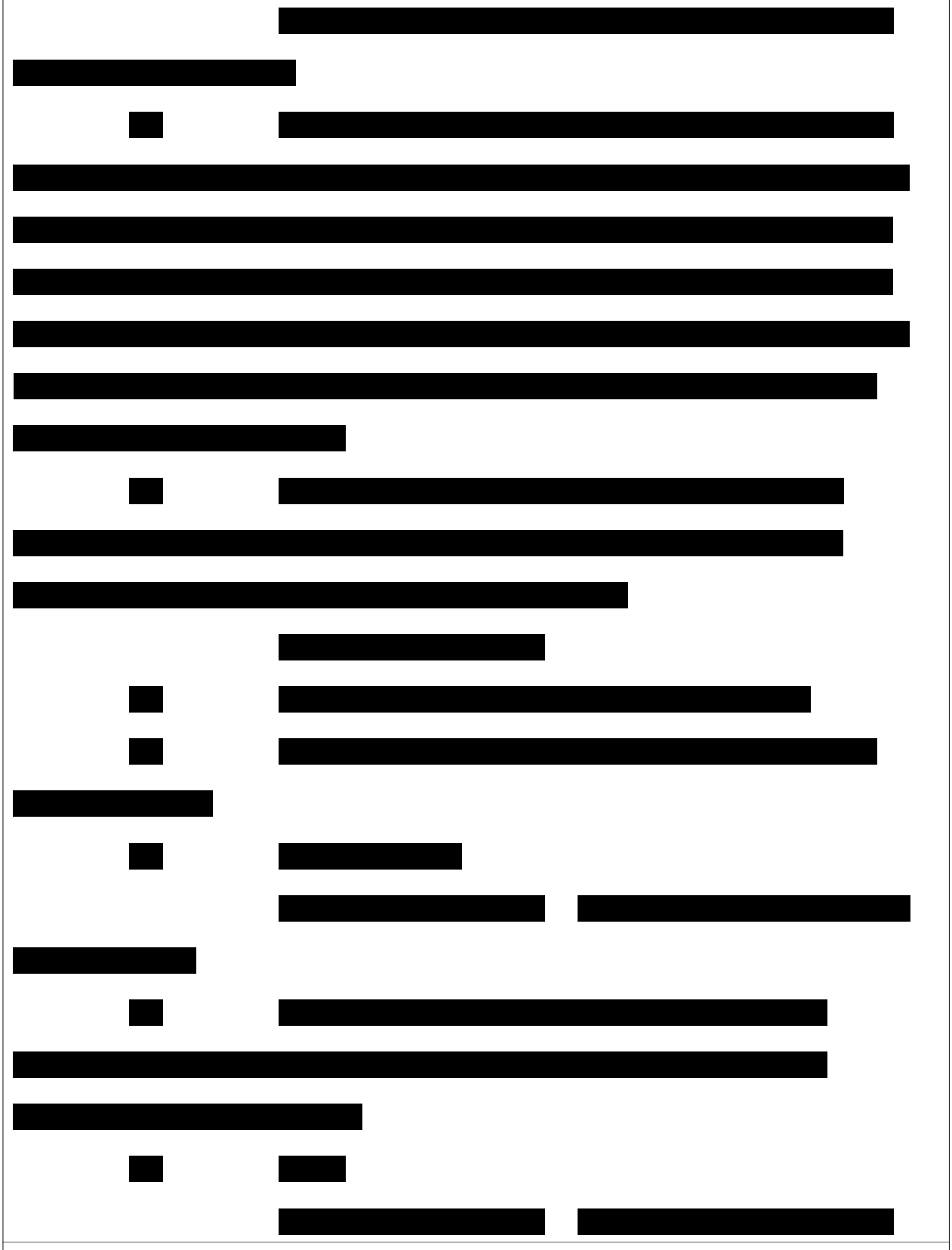


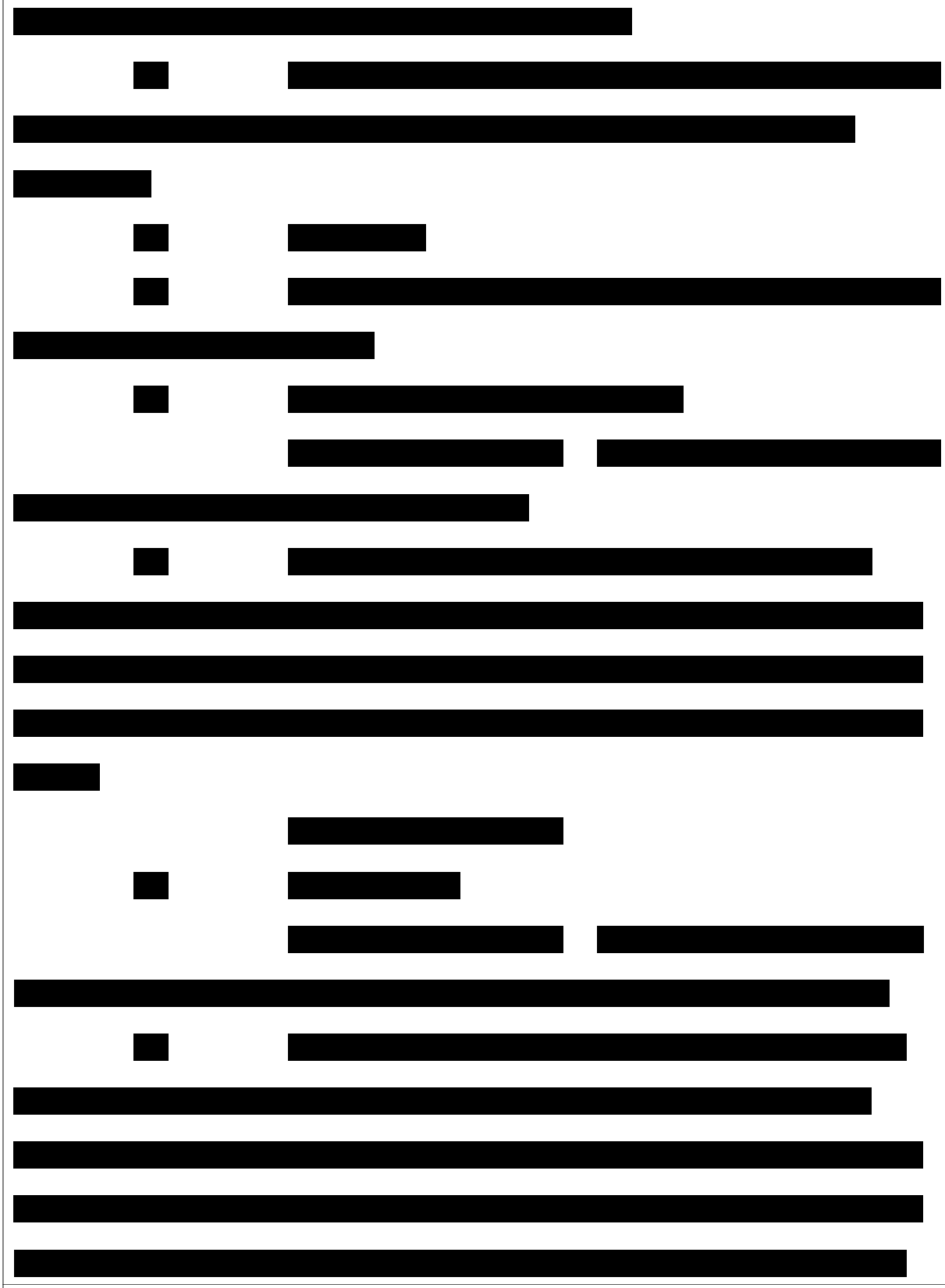


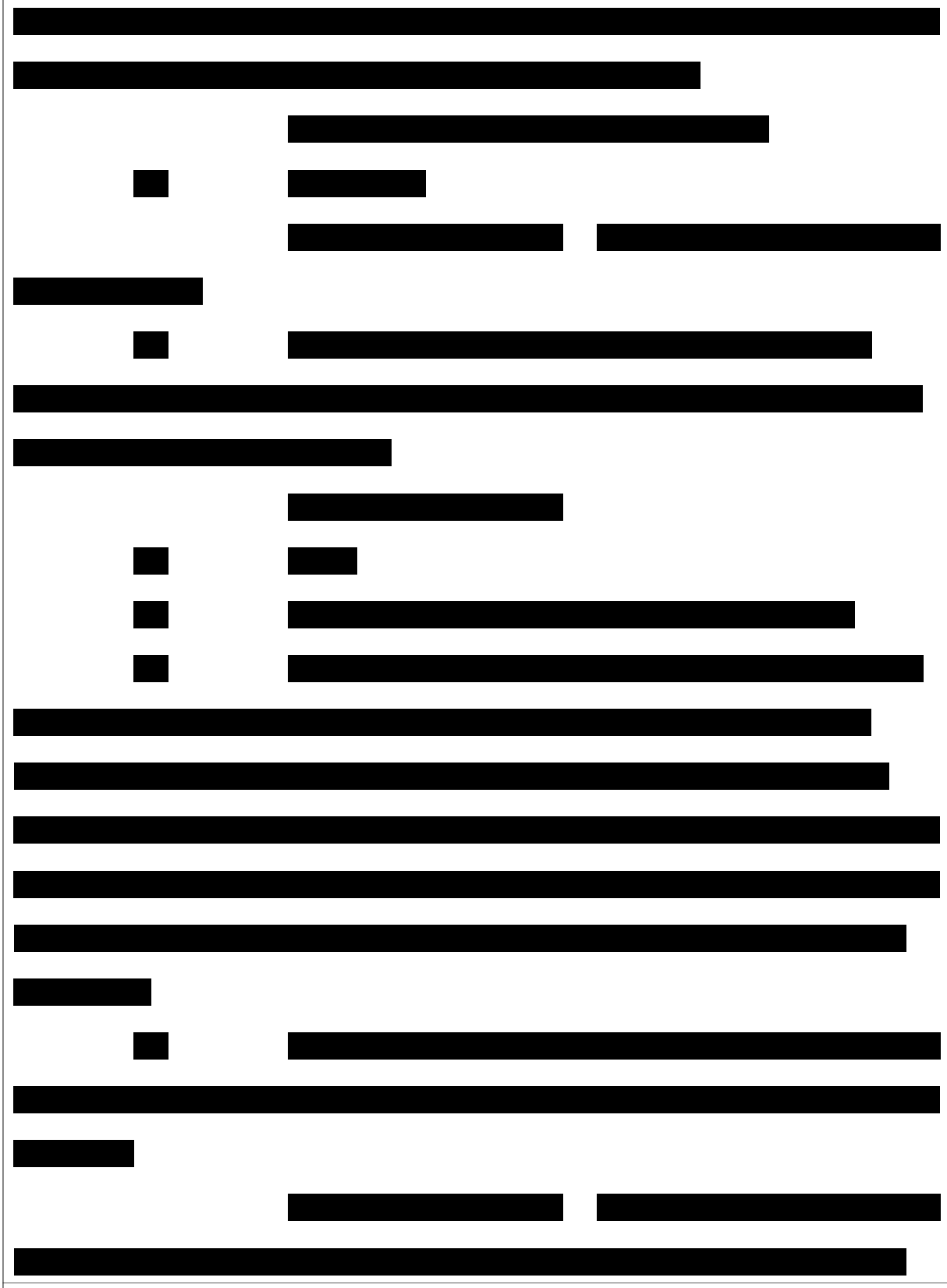


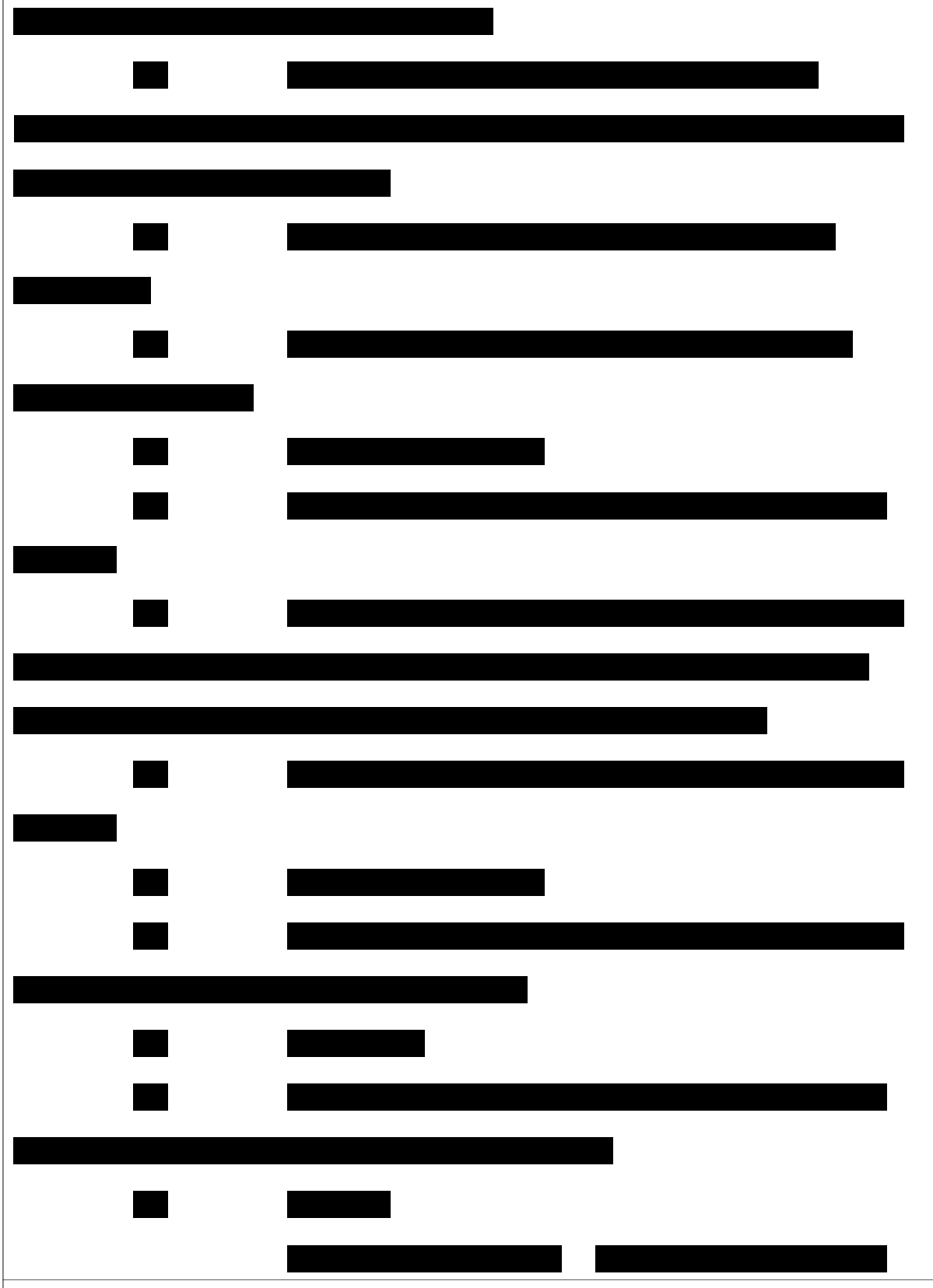


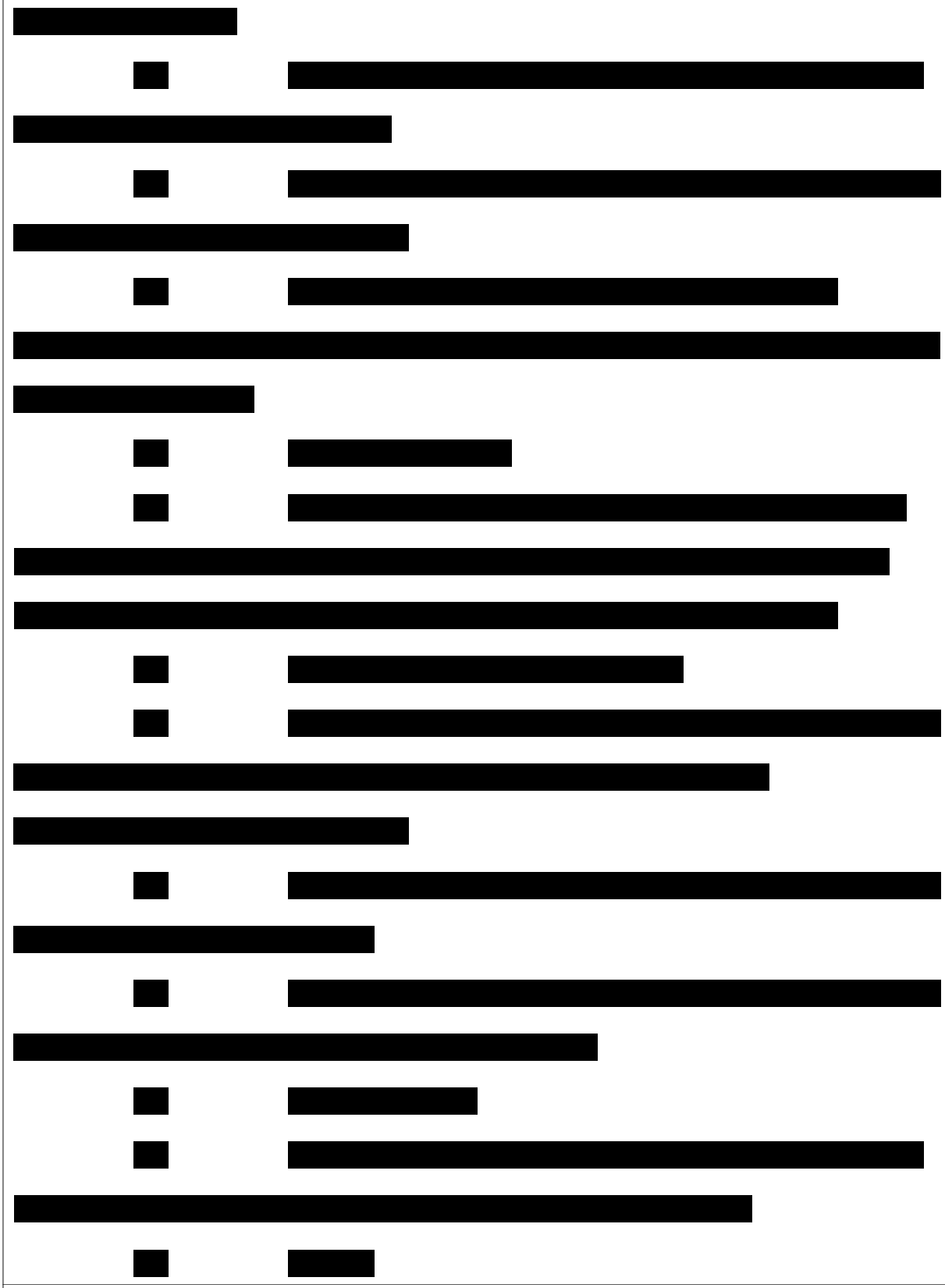


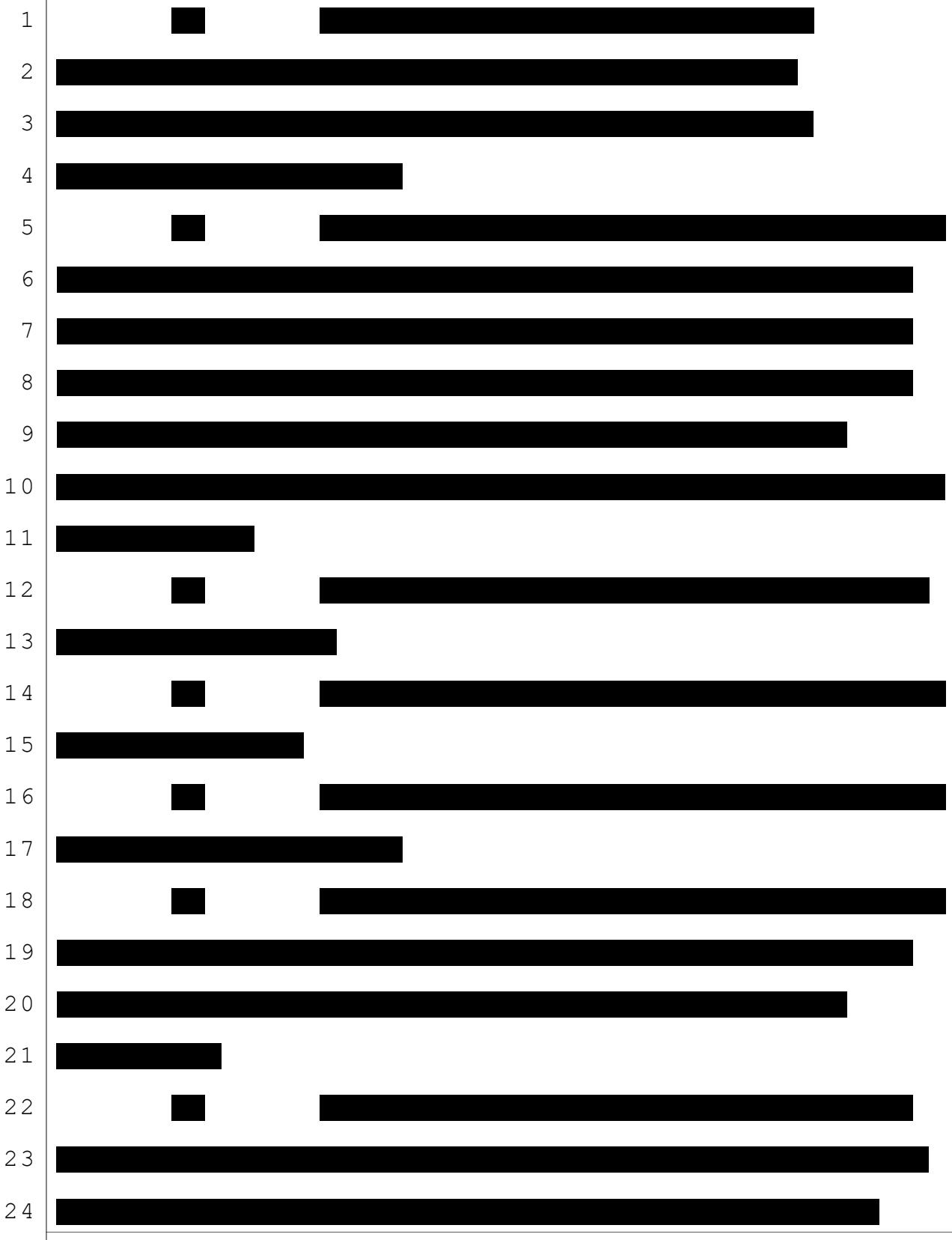












[redacted]

(Witness excused.)

THE COURT: Do you want to let everyone know that they can come back in.

(The courtroom was reopened to the public.)

ATTORNEY BARLOW: Your Honor, the plaintiffs call Joe Yanchik.

ATTORNEY EPSTEIN: Good afternoon, Your Honor. Rachel Epstein from Quinn Emanuel. While we wait for Mr. Yanchik, I thought maybe one issue of

housekeeping, which is we have the Cayman experts from both sides, Mr. Phillips and Mr. Bloch. We brought them here in case Your Honor has questions. But I think absent that, we'll submit them on the papers.

THE COURT: Any objection?

ATTORNEY TAFT: No objection, Your Honor.

JOSEPH YANCHIK, having first been duly affirmed, was examined and testified as follows:

DIRECT EXAMINATION

BY ATTORNEY EPSTEIN:

Q. Good afternoon, Mr. Yanchik. Can you introduce yourself to the Court?

A. Joseph Yanchik, currently a venture partner at Apple Tree Partners.

THE COURT: If you could bring the microphone a little closer.

Q. Mr. Yanchik, how long have you been a venture partner at ATP?

A. I've been at ATP for 20 years now in different capacities. I started as a venture partner back in 2005. Did that for two years, and then started two companies in that role. I joined those companies full time. I was CEO of both. Eventually,

as they both grew, I opted to be full-time CEO in one of the companies, Aileron Therapeutics, and remained on the board of the first one.

Q. And what happened to Aileron?

A. Aileron we took public. We actually ended up taking both of them public. We raised close to a half a billion dollars into those two companies. Aileron went into the clinic, and then it eventually merged with another company.

Q. When did you leave Aileron?

A. I was there for 12 years, so I would have left around 2018. I reengaged with Apple Tree around 2019, end of 2019 as a consultant. And then at that point I took a full-time role back as a venture partner at the beginning of 2020, and I've been doing that since.

Q. Prior to joining ATP the first time, what was your background?

A. I started in '93 as a lawyer in Cahill Gordon in New York. I was a corporate lawyer, working primarily on typical transactions, mergers and acquisitions, high-yield debt, public offerings. I did that for four years, and then I was recruited to an outfit on Sand Hill Road in Silicon Valley, where I

worked exclusively on startup biotech companies. I spent half of my time representing the companies; half my time representing VCs.

After that, I started a dot-com. Shortly after that, I started a gene therapy company out of Stanford. That was eventually acquired by an incubator in the Bay Area.

One of the partners at that point asked me to join his company, which was an ag bio company. He asked me to help them restructure the company. They had a longstanding relationship with Monsanto that he wanted to see if we could renegotiate. So I did that. We did that successfully.

And around that time I met Seth Harrison and he made me an offer to join Apple Tree in Boston around, as I said, 2005.

Q. So overall how long have you been in the biopharmaceutical industry?

A. As a lawyer and as an operator, about 30 years.

Q. And are you the only venture partner at ATP?

A. No, I'm not. There are multiple

venture partners in the fund.

Q. Do all of the venture partners at ATP have similar backgrounds to yours?

A. No, they don't. We have a variety of backgrounds. Most of the venture partners have scientific drug development research backgrounds. I'm a little bit unique in my background with law and finance, as well as an operator. I'm one of the few who have raised capital into companies and run a public biotech company.

Q. So as a venture partner, generally what were your responsibilities at ATP?

A. Initially they were fairly typical to the venture partners. We had three to five companies at any given point in time where we might sit on the board that we were primarily responsible for. We would help them recruiting, developing their plans, as well as financing plans. And that's what I did for most of the time. Most of my time was spent on Braeburn, Marengo, Replicate. I also helped to set up Aulos, where I was on the board for a bit. I helped to set up Ascidian, where I maintained regular contacts with the management team.

So I had my three or four, but I would

also help on an as-needed and as-requested basis across the portfolio.

Q. So do you still have responsibility for those three or four?

A. I do.

Q. Do you have responsibility for any additional companies at this point?

A. I do. My job evolved fairly significantly after the first of the year. Initially I was asked to assist Rigmora, give some opinions on a royalty financing deal that they were working on, which I was happy to do.

After that, we started to work on various modeling exercises and whatnot, cross-portfolio, which is a little bit new for me. It was my understanding at the time we were creating these to present Rigmora with various investment options. We were looking at consolidations. We were looking at reprioritizing.

By the time we got to around, I would say, late April, end of May, it started to become clear that the companies were running out of money and we were approaching an insolvency period. Given my background, I started to take a more formal role in

terms of helping these companies start to navigate a process where we might be pre-bankruptcy. So I started to have a cross-portfolio role in particular with the preclinical companies.

Q. And can you describe for the Court a bit the process that you undertook in late April or early May.

A. Yes. Well, we were -- as a natural outgrowth of the modeling exercises we were doing -- as I said, once we started to become concerned that the companies were running low on cash, we started to dig in very deeply and build very precise models of what the cash was, what their liabilities were, what the management contracts were, leases, just a very detailed view, because we knew we were approaching a point in time where these companies might start to run out of money.

By the time we got to early May, some of the boards were independently starting to act because they were concerned with personal liability. So I started to, once again, be the primary go-between with creditors, the boards.

At that point we were forced to terminate approximately 70 percent of the employees

across all the companies. So I was responsible for that, including senior management that I was responsible for. And then just talking to -- as the primary vocal mouthpiece for the companies when we're dealing with creditors, landlords, prospective partners, et cetera.

Q. Since the filing of this suit at the end of May, have you continued in this process?

A. Yes. We're still in the middle of it. Most of the liabilities that the companies had at the time, back in April, are still on the books. We've asked the various creditors and landlords to hold tight if they could, explaining as transparently as we could what was going on with this process.

So, yes, we've still got quite a bit of work ahead of us to work that out.

Q. Currently, at a high level, what is the status, in your view, of these various companies?

A. They are in a form of, as I would call it, stasis.

So what we tried to do was reduce the burn rate of the companies as drastically as we could without completely destroying them.

And so the first part of the process

was who are the three or four people, in particular scientists, that we needed to try and retain.

The second was who are the creditors who are likely to give us the biggest problems.

And third, how could we secure the various IP, biologic materials and whatnot, with the goal of being able to restart them later.

So right now they are in stasis and dealing on an ad hoc basis with various creditor issues as they arise.

Q. And are you aware that in May of this year, the general partner called capital from the Rigmora entities?

A. Yes, I am.

Q. Do you have a general understanding of the quantum of those capital calls?

A. Yes, I do.

Q. In your view, if the portfolio companies were to receive that cash, how would it affect them?

A. Well, today I believe we could reconstitute them. That was how we set it up. The employees so far are hanging on. I believe that's a finite period of time that that opportunity will exist

for us. If we get the cash right now, we can pay off the debts, we could retain the employees, possibly even rehire some, and continue the research, which we've been planning in terms of how to ramp that up.

Q. And you said it's a finite period of time, in your view. Why is that?

A. Well, whenever you stop a research organization, it starts to deteriorate. So if we take more time, we will start to lose employees. They've been gracious to stay as long as they have, and we have not put any retention packages in for them, which has been amazing that they have stuck it out. But they believe in the science, I think.

Also, we are in a very competitive market. People will pass us. We work in valuable areas. We're aware of competitors. They are passing.

And then the creditors. So far they've held off. I don't believe they will hold off for much longer, and then they can force us into bankruptcy. And then we are likely to lose the assets.

Q. Switching topics a little bit, are you aware of some actions in the Cayman Islands brought by the Rigmora LPs against the GP?

A. Yes, I am.

Q. And are you aware that one of the requests that has been made is for provisional liquidators?

A. Yes, I am.

Q. Do you have a view on whether or not that will affect the companies?

A. It will affect the companies. I believe it will end the companies. You know, as the primary person who has been talking to the creditors and the employees, it's my understanding that these would be provisional liquidators. I think once you take anyone with the role that says "liquidation" on there and put them into the current situation, it will be a signal that we are done. I believe the employees will leave. I believe the creditors will move to protect their positions.

Secondly, the reason we've been able to hold it together is because Apple Tree has had success with some of these creditors, many of these employees. We've been able to build companies. So far they've been willing to take us on our word. Once we're out, they are going to assume that we lost and the build is gone. And once again, that will be a

signal, I believe. So I just -- I don't see how we survive that.

Q. So putting aside the factors that you've just mentioned, do you think that if, for example, the provisional liquidators had a scientific background, that would help mitigate some of the concerns?

ATTORNEY TAFT: Objection. Leading.

THE COURT: You can ask leading questions, but it's hard for me to assess the credibility of the witness when you do that. So try not to.

ATTORNEY EPSTEIN: Fair enough. I can withdraw it.

BY ATTORNEY EPSTEIN:

Q. Other than the concerns you've just raised, do you have any other concerns?

A. Well, it's the role that we play. We have spent, in most cases, three, four, five years growing up with these companies, watching the science, recruiting the executives, building out the financing plans. And you have to -- to do this successfully, you have to develop an independent view from the management team. And you need to partner with them in

that regard with that independent view.

I don't see how that would be replaced. I don't see how anyone would be able to come in, even with a scientific background, and replace the understanding we've developed around the teams and the technologies and the markets.

Q. Are there any other concerns regarding provisional liquidators that you believe the Court should know about?

A. No. That would state it.

ATTORNEY EPSTEIN: Pass the witness.

CROSS-EXAMINATION

BY ATTORNEY TAFT:

Q. Good afternoon, Mr. Yanchik. Will Taft, Debevoise & Plimpton, for the defendants.

Mr. Yanchik, you are a lawyer, but you are not a Cayman law lawyer; correct?

A. That's correct.

Q. And you mentioned your work on the reallocation process in the spring of this year. The goal of that reallocation plan was to optimize the number of milestones that could be achieved across the fund; correct?

A. That's not how I would state it, no.

ATTORNEY TAFT: Can we play clip 39, Yanchik 1, 258, 18 to 22.

(A video clip was played as follows:)

Question: So you're looking for a way to optimize the number of milestones achieved across the fund; correct?

Answer: That was the goal of the reallocation plan.

(End of video clip.)

BY ATTORNEY TAFT:

Q. Do you agree that optimizing the number of milestones achieved across the fund would be a reasonable objective?

A. It was -- to be clear, it was one goal, but it was also trying to deal within certain parameters of diminishing capital.

ATTORNEY TAFT: Can we play Yanchik clip 57. That's Volume I, 258:23 to 259, line 1.

(A video clip was played as follows:)

Question: And was that a reasonable objective in your assessment?

Answer: To try to optimize the -- I think that's always a reasonable objective.

(End of video clip.)

BY ATTORNEY TAFT:

Q. Mr. Yanchik, you began thinking about a restructuring plan for certain companies in late April, early May of this year; correct?

A. I would not call it a restructuring plan. Once again, we were trying to develop multiple options that we believed Rigmora wanted to see to engage with the portfolio in a variety of ways.

So restructuring was one component. Restructuring was certainly one of the things that we were considering at the company level, at the fund level. But you continue to say "the goal," and there were multiple goals at this point in time.

Q. You mentioned that there were reductions in force --

A. That's correct.

Q. -- in May of this year; correct?

A. May, June. That's correct.

Q. And some of those happened before May 30; correct?

A. I don't recall the precise dates, but it was right around that time. It was handled on a company-by-company basis. So they did it when they thought that they were prepared.

Q. But capital wasn't called for most of these companies until May 30; correct?

A. At that point in time, that's my recollection, yes.

Q. Do you recall in connection with proposed restructuring that you were advising counsel that ATP intended to close down up to five of the portfolio companies?

A. I don't recall that. Advising that we would just shut them down outright and get rid of the assets, I do not recall that.

ATTORNEY TAFT: Can we bring up JX 2143. And if you can go to the second email on this chain on the first page.

Q. It is an email dated May 2.

Do you recognize this email?

A. I do.

Q. And here you are advising counsel that "As you can see, we are cash out in a couple weeks at some of the companies, so decisions are being finalized this weekend .... This has not been communicated to the companies or employees as of yet."

ATTORNEY TAFT: And we can go to the next paragraph, fourth paragraph.

Q. Do you see it says, "We intend to close down 4 or 5 of the remaining companies depending on final budget and other considerations"?

Do you see that?

A. I do.

Q. And do you recall that of those four or five companies, there was only one of them that ATP really wanted to salvage the IP from?

A. No, I disagree with that.

ATTORNEY TAFT: Can you look further down to the next -- the fifth paragraph. Thank you.

Q. Do you see where it says, "Of the shuttered companies, Nine Square is the one we really want to keep the assets but needs to be shuttered quickly"?

A. That one is referring to needing to move quickly on Nine Square. But I do not believe the intention ever was to get rid of all the assets. As a matter of fact, every one of my activities from February until very recently is trying to find ways to maintain all of the assets, whether or not we felt the liabilities of various companies made the corporate entity potentially problematic.

Remember, at this point we're

speculating as to how fast the creditors were going to come in and how things were going to deteriorate. But it was never our intention to get rid of all the assets.

But what I said earlier -- it would be helpful to be able to see the whole email here. What I said earlier was depending on the final budgets and what happened. So we were dealing with quite a few contingencies at that time.

ATTORNEY EPSTEIN: I'm sorry, Your Honor. Do we have paper copies for the witness?

ATTORNEY TAFT: Do we have a binder?

May I approach?

A. Can you tell me what tab, Counsel?

Q. It was JX 2143.

ATTORNEY TAFT: You can take down the slide.

A. I think what's important here is that the first sentence, it discusses how -- at this point in time there was an attachment to this email that indicated the various companies and the liabilities. At this point in time, at the beginning of May, we were speculating as to what was retrievable and what wasn't with regard to the companies. But the goal

always was to try to maintain as many assets as we could, whether or not we could develop them, depending on how much capital came in.

Q. Mr. Yanchik, changing topics, do you recall a communication with Dr. Ehlers in which you suggested that the Russia factor may be an excuse for other challenges that ATP presents?

A. I do recall that.

ATTORNEY EPSTEIN: I'm just going to object as being outside the scope.

THE COURT: You can continue. Overruled.

ATTORNEY TAFT: I have no further questions.

THE COURT: Thank you.

Anything further?

ATTORNEY EPSTEIN: Nothing further, Your Honor.

THE COURT: Thank you. You can be excused.

(Witness excused.)

ATTORNEY BARLOW: Your Honor, plaintiffs call Mark Robbins. And my colleague, Ms. Jessica Reese will be handling the questioning.

THE COURT: Thank you.

MARK ROBBINS, having first been duly affirmed, was examined and testified as follows:

DIRECT EXAMINATION

BY ATTORNEY REESE:

Q. Good afternoon, Dr. Robbins.

A. Good afternoon.

Q. Would you please introduce yourself to the Court.

A. I am Mark Robbins. I'm the president and chief executive officer of Kodiak Strategic Consultants.

Q. Did you prepare a slide deck to accompany your testimony this afternoon?

A. Yes, I did.

Q. Is this the presentation that you prepared?

A. Yes.

Q. Dr. Robbins, what is the business of Kodiak Strategic Solutions?

A. Kodiak Strategic Consultants.

Q. Consultants.

A. It provides clinical, regulatory, business development, consultation strategies for

pharmaceutical and biotech companies.

Q. And prior to becoming a consultant, what was your experience in the life sciences industry?

A. I have over 30 years of experience working at pharmaceutical biotech companies doing preclinical, clinical, regulatory affairs, and business development activities.

Q. What degrees do you hold?

A. I have a doctorate degree from the University of Minnesota Medical School and a law degree from St. Louis University.

Q. Dr. Robbins, do you have any experience with preclinical or early-stage life science companies in investing?

A. Yes, I do.

Q. Could you tell us about some of that experience.

A. I work with a lot of early-stage companies helping them to develop plans, strategic plans, investment portfolios, raising money, talking to different potential investors, making presentations. And I also personally evaluate startup companies and I personally invest in some early-stage

companies.

Q. In your consulting work, have you assisted companies in trying to obtain funding for preclinical research and development activities?

A. I have.

Q. Approximately how many companies have you assisted with?

A. Over a dozen.

ATTORNEY REESE: I ask the Court to qualify Dr. Robbins as an expert in biotechnology funding, research and development, and investment.

THE COURT: Any objection?

ATTORNEY TAFT: No objection.

THE COURT: Thank you.

BY ATTORNEY REESE:

Q. Dr. Robbins, what was your initial assignment in this matter?

A. My initial assignment was to assess whether Rigmora's 2025 decision to defund these preclinical studies was reasonable from an investment standpoint.

Q. Did you prepare a report on these topics?

A. Yes, I did.

Q. Is this the slide that you prepared summarizing the opinions in your opening report?

A. It is.

Q. Briefly, what did you conclude?

A. I concluded that Rigmora's decision to halt all funding of these preclinical studies was not how a reasonable investor would act trying to get a return on investment. By defunding the companies, they were essentially diminishing value.

In coming to that assessment, I used a multifactor framework to evaluate each of the companies within the portfolio, and I wrapped those up into an overall portfolio to make an assessment to make a continued investment.

Q. Did you also prepare a rebuttal report in this matter?

A. I did.

Q. And what were you asked to evaluate in your rebuttal report?

A. I was asked to look at Dr. Rimm's opinion that it was -- defunding of these seven companies because they missed the milestones from the investment memorandum was reasonable from an investment standpoint.

Q. I'm looking to Slide 7. What opinions did you form in preparing your rebuttal report?

A. I found that Dr. Rimm's focus was too narrow when she just looked at the milestones in the investment. And as Dr. Harrison testified, once you start doing research, those milestones readily change.

Investors in R&D in biotech companies understand that as you get data, milestones will shift. And they have to shift. And so I looked also at these companies to see were they really developing assets that were worthwhile and had a potential for getting returns. So those were key factors.

Q. Dr. Robbins, turning back to your opening report, how did you go about assessing the reasonableness of Rigmora's across-the-board decision to defund the portfolio companies in May 2025?

A. I looked at each of the companies individually, and then I rolled them up into the portfolio. And the way I looked at each of the companies was through a multifactor analysis that typically is used when you are looking at investing in companies and assessing companies.

Q. If we could turn to Slide 8. Is this a slide you prepared summarizing that multifactor

framework?

A. It is.

Q. What types of factors are included in this framework?

A. You evaluate the experience of the management team, the scientific research, what development progress has been made, what development progress can you expect to have, what the intellectual property protections are.

You also look to see is it breakthrough therapy that's meeting an unmet need. That's absolutely critical, that there has to be a need for product.

You look at third-party interest to see is this an area of interest to people outside of the company to understand what the landscape is.

Q. Did you design this multifactor framework yourself?

A. No. This framework is informed by my work in the industry from doing business development over 30 years, putting together presentations. Also, as an investor, these are the things I look at when I do that. This is also, from an industry standpoint, pretty much a standard when you are making

presentations to VCs. It also fits into the same realm -- an investment memorandum that ATP was putting together. And it's supported by academic and industry publications that this general framework is used.

Q. I want to talk a little bit more about some of these factors. Why is third-party interest important to assess?

A. Third-party interest helps validate the area for which you are going for. You want to see if there's an unmet need, is it realistic, and also if there is, from a third-party interest, potential business development opportunities. A lot of these early-stage companies, their goal is not to commercialize it themself, but to license them out and do core development or development with large biotech and pharmaceutical companies. So that's also important.

Q. You mentioned business development deals. For an early-stage company that's nearing or at the conclusion of its Series A funding, would an investor be looking for finalized deals exclusively?

A. The finalized deals are great, if you have them. But it takes a long time to get a business development deal. You are doing development all

along. It's prudent to have conversations early on with companies so they are aware of what you are doing, follow up as data gets generated. But actually, signed deals can take several years in process. So it's not unusual. You just want to see what's being tracked.

Q. Stepping back, does any one of the factors outlined here determine whether a company is worth investing in?

A. All these factors are critical in making that assessment. You want to make sure that there's a good management team, there is scientific validity, that it's a very strong portfolio. So you want to make all those assessments. All these factors count.

Q. And would you expect the factors to be weighted similarly for companies with assets in the same stage of development?

A. No. Each early-stage company is unique. And so sometimes certain factors will weight more than other factors.

For instance, if you have a person who is a Nobel Prize Laureate who has a great idea, that's going to be highly weighted. If you have something

that has a huge unmet need, that can be highly weighted. IP -- so you look at each individual company, early-stage company uniquely.

Q. And for this assignment, did you evaluate each individual portfolio company individually?

A. I did.

Q. Turning to Slide 9. Is this a slide that you prepared summarizing your findings?

A. Yes.

Q. Could you briefly walk through what you found.

A. So I looked at the seven companies on the slide and I found for each of the companies, that they had had significant preclinical or clinical development progress. They were all working towards getting an IND in place. They had leadership teams that were composed of world-renowned experts in the area they were working in. They all had breakthrough technologies, very novel. And they were in discussions -- some of them had partnerships with large biotech companies or they were in discussions with large pharmaceutical biotech companies.

Q. And so based on all of the materials

that you reviewed, do you believe a reasonable investor would have across the board refused further funding for the preclinical companies in May of 2025?

A. In my opinion, a reasonable investor wouldn't do that because the portfolio had a lot of potential value to it. And by halting funding and asking the companies to be wound down and liquidated, it's destroying value; whereas a reasonable investor wants to increase value and get a return on their investment. There's no basis to want to destroy value.

Q. Dr. Robbins, are you aware that Rigmora's expert, Dr. Rimm, reached a different opinion regarding the reasonableness of Rigmora's decision in May of 2025?

A. I am.

Q. And what do you understand her opinion to be?

A. I prepared a slide. I can say it. Dr. Rimm's opinion was that to -- it was reasonable to defund these companies because the milestones that were laid out in the initial memorandum four to five years before, those milestones had been missed. And therefore, because those milestones had been missed,

it was reasonable to defund all the companies.

Q. And what do you mean when you say "those milestones had been missed"?

A. The time that was in the initial investment memorandum for the milestones maybe were not achieved in that time frame. That's common in pharmaceutical development, though, because you have to follow the research and development and adjust your time limits based upon the data that's coming out.

Q. And did you consider development progress when you were evaluating the preclinical companies?

A. I absolutely did.

Q. How did your consideration of development progress differ from Dr. Rimm's consideration?

A. I took a more holistic approach. I didn't rely upon the initial investment memorandum for the timelines. I looked to see what was actually being done at the companies, what work had been completed, where they were in development at that time when they were cut off from funding. I looked at that. I looked at was unmet need still there. I looked at was the technology still promising. I also

looked at the management teams.

Q. Is this Slide 11 a slide that you prepared summarizing some of the progress you observed amongst the preclinical companies?

A. It is.

Q. Just briefly focusing, first, on development progress, could you describe what you observed about the preclinical companies.

A. All the preclinical companies had made significant development progress. Two of the companies were already in IND-enabling studies. They were getting a place to file IND in the next year or so. IND is necessary to be able to initiate clinical trial. They had gone through candidate selection of some of these companies. So they were all going through the normal development process, and they were hitting milestones.

Q. What about third-party partnerships or collaborations, what did you observe amongst the preclinical companies?

A. They all were in good negotiations for partnerships. As was testified before, Aethon had started a partnership with Revolution Medicine. That had a potential value of up to 940 million that had

already been executed.

At the time of the defunding decision, Deep Apple was in discussions with Novo Nordisk. And, actually, they executed a license agreement shortly after the defunding decision was made in June 2025. They had a value up to $812 million.

In addition to that, all the other companies were in discussions with large pharmaceutical biotech companies.

Q. Did you also evaluate the preclinical companies' leadership and management teams?

A. I did.

Q. Turning to Slide 12, does this slide summarize some of what you observed regarding the companies' leadership and management teams?

A. It is.

Q. Could you briefly describe what you observed.

A. Well, with Evercrisp, the co-founder was Dr. Jennifer Doudna. She is a Nobel Prize winner who is the preeminent scientist in gene modification. She came up with the CRISPR/Cas technology. She's won a Nobel Prize for that. So she was involved, and they have top science in that company.

I looked at Apertor. You have Dr. Jay Keasling in charge of that. He's done 12 startup companies, raised over $2 billion.

You have excellent oversight of these companies by ATP with Dr. Paul Da Silva Jardine, Dr. Spiros Liras, where they have many years of experience working at Pfizer, Biogen, large pharmaceutical companies. They know the drug development process very well, and they are overseeing these companies. So you have great management team and excellent science.

Q. Did you undertake any review of the commercial potential of the preclinical companies as part of your assignment?

A. I did not.

Q. Why not?

A. I didn't find it particularly relevant. The commercial aspects are many years out.

In R&D, in development, there's lots of pivots. And typically as an investor, you are not looking for necessarily the full valuation from a financial standpoint. You are looking at the opportunity for advancing the technology far enough to either get license deals in place, to exit by company

merger, acquisition, additional investment coming on where you can partially exit, or going public.

So there are lots of ways to have value well before you take on the commercial risk. So I didn't find the commercial assessment critical.

Q. Now, turning back to development progress, in your opinion, can a company that has missed a milestone date set early on in an investment memorandum still represent a promising scientific and clinical opportunity?

A. Absolutely. Many very successful therapeutics have missed development milestones. I can't think of anybody developing a drug, even in large companies, that meet all the timelines that -- from initiation of the project until the product is commercialized. There's research and development that starts out, and it's really hard to tie it to the time frame you have to follow the data.

Q. And what might prompt a preclinical company to pivot?

A. You want to be able to pivot -- and pivot is where you're changing the direction slightly. You want to be able to pivot because you might find the mechanism of action of the drug is better suited

for a different indication or your lead molecule isn't the best lead molecule and you have something else that would be much more substantial. So you want to pivot to that. Or you have a platform technology that is developing different drug molecules and you'll find a pivot is going to be better in order to go into a different therapeutic area.

There was discussion of that today. I believe it was Replicate, where they pivoted from an oncology vaccine and they went to a rabies vaccine and actually are on the market for that product. Those are successful pivots.

Q. And in your experience, are companies that pivot -- strike that.

How do these pivots impact the scientific and clinical potential of an asset?

A. They typically improve it. They can partially delay the timeline of that. But usually when you pivot, it increases the likelihood of success. It's no one's interest to go down a path that's not going to be successful. So to pivot to something that looks more promising increases the valuation. You want a flexible management that knows when to pivot.

Q. In your experience, how common is it for a preclinical biotech or pharmaceutical company to pivot?

A. Very common.

Q. Turning to Slide 14, and stepping back, based on your experience, do you believe it is appropriate for Dr. Rimm to assess the preclinical companies based solely on their progress as compared to timelines that were set several years ago in investment memoranda?

A. No. Those timelines and investment memoranda are optimistic of the time the investment is going to be made, realizing that once you start research and development work, those timelines are going to be modified.

Q. And are you aware of any academic literature supporting this milestone-centric approach that Dr. Rimm employs?

A. No.

Q. In your opinion, would it be reasonable for an investor in Rigmora's position to base its funding decisions in May of 2025 solely on progress as compared to investment memoranda from several years prior?

A. Absolutely not, because as a sophisticated investor in the pharmaceutical biotech arena, you know those timelines are subject to change.

ATTORNEY REESE: Thank you very much.

ATTORNEY TAFT: Your Honor, may we approach with some binders for you.

Will Taft for the defendants.

CROSS-EXAMINATION

BY ATTORNEY TAFT:

Q. Dr. Robbins, your report assesses 13 portfolio companies owned by the fund; correct?

A. That's correct.

Q. And, in your opinion, continued investment in at least part of that portfolio would have been warranted in May of 2025; correct?

A. That's correct.

Q. But a reasonable investor might decide to invest in fewer than all of those portfolio companies; correct?

A. I believe that's a correct statement. I looked at it from a portfolio view, looked at each company individually, and then wrapped up the portfolio. I didn't make a determination on individual companies.

ATTORNEY TAFT: Can we play clip 30 that is Robbins transcript 70, lines 4 to 11.

(A video clip was played as follows:)

Question: So a reasonable investor might invest in fewer than all of them; correct?

Answer: Potentially. Like I said, it's hard to pick which ones are going to be the winners and losers there. But to defund all of them I don't think is reasonable.

(End of video clip.)

BY ATTORNEY TAFT:

Q. So, Dr. Robbins, you did not conclude that all 13 portfolio companies merited continued funding; correct?

A. I didn't make that assessment.

Q. Now, you agree, and I think you just stated on direct, that a reasonable investor seeks a return on investment; correct?

A. Yes.

Q. And in performing your analysis, you mentioned under questioning that you didn't consider the portfolio's commercial potential; correct?

A. I did not do a financial analysis of it. I looked at their unmet therapeutic need they

were looking to treat. And from that perspective, I recognized there was a need for the product. But I did not do a financial assessment, that's correct.

Q. So your analysis does not consider the financial potential of any portfolio company; correct?

A. That's correct.

Q. So you didn't review the balance sheets for any portfolio company; correct?

A. No. But the balance sheets weren't particularly relevant because the balance sheets were being controlled by the fund. So balance sheets were what they were.

Q. And you didn't assess the value of any of the portfolio companies; correct?

A. That is correct.

Q. And you didn't provide any opinion as to the likelihood that any of these portfolio companies would actually develop -- succeed in developing an approved therapeutic product; correct?

A. That's correct. But for being successful, they don't have to develop an approved therapeutic. They can license out. There's always risk in pharmaceutical development.

Q. And you didn't assess the amount of

money that would be required by any portfolio company to achieve a potential exit for the investor; correct?

A. That's correct.

Q. And you expressed no opinions in your report about how much funding any of the preclinical companies merited; correct?

A. That's correct.

Q. You discussed Dr. Rimm's opinions right now and in your rebuttal report; correct?

A. Correct.

Q. You don't dispute Dr. Rimm's conclusion that by mid -- by first quarter 2025, all of the early-stage companies had missed investment memorandum milestones; correct?

A. I don't dispute that. I don't think that's a -- I think that's a flawed analysis, but I don't dispute that.

ATTORNEY TAFT: No further questions. Thank you.

THE COURT: Thank you. You can be excused.

(Witness excused.)

ATTORNEY TAFT: Your Honor, by agreement of the parties, we've agreed to take

defendants' expert, Dr. Strebulaev, out of order. I would therefore call Professor Strebulaev to the stand.

We will be distributing some binders. May I approach?

THE COURT: Yes.

ILYA STREBULAEV, having first been duly affirmed, was examined and testified as follows:

DIRECT EXAMINATION

BY ATTORNEY TAFT:

Q. Good afternoon, Dr. Strebulaev.

A. Good afternoon.

Q. Could you please introduce yourself to the Court.

A. My name is Ilya Strebulaev. I'm a professor at the Stanford University Graduate School of Business.

ATTORNEY TAFT: Could we please pull up Slide 1.

Q. Dr. Strebulaev, would you take a few moments to describe your background and qualifications with respect to venture capital investing.

A. Of course. First of all, my educational background, I did my BA in economics at

Moscow State University, then my MA in economics at the New Economic School, and then my M.Phil and Ph.D. in finance at the London Business School.

And upon completion of my Ph.D., I joined Stanford Graduate School of Business in 2004. And I am now there, the David S. Lobel, professor of private equity and professor of finance.

My expertise is venture capital and private equity. In terms of teaching, I teach a range of capital classes that students at Stanford take to become either venture capitalists or founders of venture capital-backed companies.

In terms of research, I founded and had our venture capital initiative that produces a lot of research.

Just an example, one of our -- my research pieces with my colleagues where we surveyed venture capitalists in the United States that represent the majority of assets under management. And I'm proud to say that academic paper has been the most cited paper in the field of venture capital research in the past five years.

ATTORNEY TAFT: Your Honor, defendants offer Dr. Strebulaev as an expert on venture capital

investing.

THE COURT: Any objection?

ATTORNEY JONES: No objection.

ATTORNEY TAFT: If we could pull up the next slide.

BY ATTORNEY TAFT:

Q. Dr. Strebulaev, could you please describe this analysis for the Court.

A. Of course. As a part of my assignment in this case, I was asked to review the capital contributions by Rigmora to the ATP fund on the cumulative basis through the end of May of 2025. And as I understand, there may be a dispute whether certain deemed capital contributions should be considered against the capital contribution -- capital commitments of Rigmora against subscription agreements.

And so what I show here is -- the black line shows the total cumulative capital contributions by Rigmora, taking into account those deemed capital contributions under dispute. And the orange one, excluding those capital contributions.

Q. And I see a vertical green line going down on the right-hand side. What does that

represent?

A. That represents the start of the Russian-Ukrainian war in February of 2022. As I understand, there are allegations in the complaint that after the start of the war, Rigmora, sorry to say, lost enthusiasm for honoring its capital commitments and tried to stop providing funds to ATP.

What I think this chart clearly shows is that the capital contributions by Rigmora continued more or less at the same pace both before and after the start of the war.

ATTORNEY TAFT: We can take that slide down.

Q. Dr. Strebulaev, as part of your work on this case, did you consider whether it was consistent with reasonable investor behavior for Rigmora to condition the discussion of additional budgets for certain companies in the portfolio on the general partner agreeing to wind down the early-stage companies?

A. Yes, I did consider this, and I concluded that it was reasonable.

To start with, let me point out that any investor doesn't have an unlimited budget, an

unlimited capital. And therefore, what a reasonable investor does is tries to -- it tries to allocate its limited capital towards the best investment opportunities that are available to that investor.

For example, one of the factors in this case is that I understand Dr. Rimm concluded that each of the early-stage companies in the matter missed milestones that were in the original investment memoranda, the Series A funding. And in my experience in the venture capital space, the milestones constitute one of the very important factors for venture capital investors because effectively they allow investors to evaluate the progress the company is making relative to the original expectations.

Q. Other than performance against milestones, what other factors does your research indicate a reasonable investor would have contemplated in considering further investment in the early-stage companies?

A. Well, of course there are many factors. But among those many factors, some of the factors would be the recent performance of the venture fund, interest or lack of interest by third-party investors. And also I think an important factor is

the potential conflict of interest that the general partner or whoever manages the venture fund may have.

Q. And as part of your opinions in this matter, did you analyze the fund's recent performance?

A. I did.

ATTORNEY TAFT: Could we pull up the third slide, please.

Q. Dr. Strebulaev, how does this slide relate to the opinions in your case?

A. Well, this is the result of my investigation that I did on the recent performance of ATP fund relative to the comparable sample of early-stage biotech funds.

So let me try to explain. First of all, I concentrate on two financial metrics that are very commonly used in the venture capital industry. The first metric up top is "Net IRR," where IRR stands for the internal rate of return. And the bottom panel shows "TVPI," which stands for the total value to paid-in investments. The fact to think about TVPI is how many dollars you get for one dollar of investment in the venture fund.

Q. Where did you get the data for ATP's net IRR and TVPI?

A. Well, first of all, the ATP data is for ATP Pools V-1, V-2, and V-3. And this is the data that ATP reports itself in its statements to the limited partner. And also what the red bar shows is this performance -- the most recent performance available to me as of December, end of December 2024. And maybe I should mention that Pools V-1, V-2, and V-3 are recent investments. Those pools started between 2019 and 2021 and really the only actively managed investments by ATP.

Now, what you see in blue is the performance of the comparable -- a comparable sample. And I show three metrics here both for net IRR and TVPI: the median performance, the average performance, and the top quartile. And let me also mention, importantly, that in the venture capital industry, investors care a lot about the top quartile because this is risky investments. And investors try to invest in the top-performing managers. That is commonly understood as to be in the top quartile of performance.

So to -- I think this chart clearly shows that ATP Pools V-1, V-2, and V-3 performed poorly. Their performance was below the median, below

the average, and I would say dramatically below the top quartile.

Q. And how would that affect a reasonable investor's assessment of the decision whether to invest additional funds in these pools?

A. Well, as I already mentioned, reasonable investors try to allocate their limited capital to the best possible opportunities. So this analysis would cause a reasonable investor to have a lot of concerns about the poor performance of the fund, and as a result of -- the reasonable investor's result of this would consider whether to continue funding any of the companies within those pools.

Q. Now, as part of your work on this case, did you also assess the third-party interest in the fund's portfolio companies, in the early-stage companies?

A. Yes, I did, specifically the equity interest by third-party investors, which, in my experience and my research, is one of the critical considerations by -- in the venture capital industry.

ATTORNEY TAFT: Can we please pull up the next slide.

Q. How does this slide relate to your

opinions?

A. This was the result of my investigation. Let me try to explain briefly. What I did is I compared seven early-stage companies and ATP Pools V-1 and V-2 -- and they are shown in the red -- with a sample of the comparable early-stage biotech companies, retraced their initial funding rounds to approximately the same size as the early-stage companies in the matter.

And what I looked at is the timing, which is how quickly that comparable companies raised subsequent funding, went public, or did what I would describe as successful M&A, which is with at least twice the amount invested. So I would describe those kind of companies in blue here as successful or potentially successful.

What the chart shows is that the median company raised its subsequent round of follow-on foreign investment within approximately 1.5 years.

If you look at the 75th percentile, it means that 75 percent of the comparable companies raised their follow-on investment at 2.18 years.

If we compare this to the early-stage

companies, none of the early-stage companies in the matter had any follow-on investment for at least 2.18 years, so well beyond the timing of typical comparable biotech companies. And the timing is, as of May 15, 2025, between 2.35 and 4.83 years plus since their initial funding without any subsequent follow-on investment.

Q. And did you also hear Dr. Robbins testify regarding third-party interest in the early-stage portfolio companies?

A. I did hear he testified about it right now.

Q. And did any of that testimony change your opinions in this case?

A. No, it did not, for a number of reasons. One reason is that he had a slide where in the last column he showed what he called third-party interest. And none of those examples that he showed were from investors.

Second is that the examples that he showed, many of those were stale. For example, the very first example he had, I believe, was a company called Evercrisp. And he said the discussion with potential pharmaceutical companies, which is not

equity interest -- in progress or in discussions he said. Well, that is information from, I believe, 2023.

In my review of the most recent reports from ATP, those discussions are not mentioned. And if we go down, there will be more examples like that.

Q. What conclusions do you draw regarding whether -- how a reasonable investor would assess the level of third-party interest in these companies?

A. Maybe I should also mention that as a part of my investigation, I also looked into whether it is common for a single -- for companies to have only single investor in a follow-on financing. And I found out that if you look at the comparable companies, it is very uncommon. It happens only in 4 percent of cases, meaning that for the overwhelming majority of successful or potentially successful comparable early-stage biotech companies who had more than one investor.

So taking this together, the conclusion I draw is that a reasonable investor would be concerned about the lack of third-party interest, investor interest, and will be concerned about the

timing of the -- so the timing by which this -- none of these companies has been able to raise any follow-on financing.

Q. Dr. Strebulaev, among the factors that you said a reasonable investor would consider -- at the beginning, you also mentioned potential conflicts of interest. Did you analyze that as part of your opinion in this case?

A. I did.

ATTORNEY TAFT: Could we pull up the next slide, please.

Q. How does this slide relate to your opinions?

A. Well, so first of all, as I understand, Dr. Harrison really controls ATP. So he's both a limited partner in ATP, in various pools of ATP fund, and he also would get carry if those pools are successful.

And, first of all, let me explain that carry is very commonly used, universally used, I would say, in the venture capital industry. And the idea behind carry is straightforward. You would like to incentivize the fund manager to find and manage companies to achieve profitable exits because what

carry is is the participation in the upside profit of the fund. So after all the initial contributed capital returned to the limited partners, carry means that if there is any profit remains, you would get a fraction of that.

Now, while carry is universal in the venture capital industry, in this specific case, there are at least two factors that would lead to the very specific conflict of interest. Let me try to explain.

So, first of all -- and I show this on the slide. And I concentrate on Pools V-1 and V-2 simply because those are the pools that contain all the early-stage companies in this proceedings.

So for those pools, first of all, Dr. Harrison's capital contribution is zero, meaning that Dr. Harrison has no financial risk with respect to those pools. So that if all of those capital is lost, Dr. Harrison will not lose anything.

Second, as you see, Dr. Harrison at the same time has 7.5 percent carry. And again, what it means is that for every hundred dollars of profit, if there's any profit, Dr. Harrison will get $7.5.

Now, the second reason why it leads in this specific case to a higher than usual, very

specific conflict of interest is because carry can lead to conflict of interest if the companies in question are not performing well.

So if the companies, let's say, have a negative net present value, which means that we should not really proceed funding them any further, but the fund manager has no financial risk and, at the same time -- just on the outlier possibility that one of these companies can be successful, the fund manager will generate potentially substantial profit.

So this asymmetry leads to potentially very large conflict of interest that would make Dr. Harrison's --

THE COURT: We're going to take our 15-minute break.

(Court in recess at 3:04 p.m.)

(Resumed at 3:18 p.m.)

THE COURT: Please be seated. We'll go until 5:00. Please begin.

ATTORNEY TAFT: Thank you, Your Honor. Again, Will Taft for defendants.

BY ATTORNEY TAFT:

Q. Dr. Strebulaev, have you reviewed the reports submitted by Dr. Rao, the plaintiff's expert in this case?

A. I did.

Q. And did you review his opinion that it would generally not be economically rational for an investor who was already in one of the early-stage biotech companies to stop providing additional funding barring circumstances like a scientific roadblock or failure of a drug candidate?

A. I did.

Q. Do you agree with that opinion?

A. I do not agree. In fact, Dr. Rao makes a basic mistake. He violates basic principles of economics. And it is such an important principle that the economists even have a name for it. It is called the "sunk-cost fallacy."

Economists generally agree that the

investment's already made in the past, and this what we call sunk costs, should not be considered when we decide on making future investment decisions.

What matters for the future investment decisions is the potential future additional cash flows that the project can generate in expectation on top of the cash flows that that project should have generated anyway if we provide additional capital.

Q. So a reasonable investor in May of 2025 would have been focused on the potential return on investment of incremental dollars that they're putting in; correct?

A. That is absolutely correct. And doing anything else would be an example of sunk-cost fallacy.

Q. Thank you.

Dr. Strebulaev, do you have an opinion as to whether Rigmora's decision to condition the discussion of additional budgets for certain portfolio companies on ATP winding down the early-stage companies was consistent with reasonable investor behavior in a venture capital context?

A. The answer is yes. And I would look at the factors that are reviewed: missed milestones,

poor performance of the fund recently, lack of third-party investor interest, substantial potential for a conflict of interest. I think take -- combine all of this together, a reasonable investor would be justified in raising very serious concerns.

And I think as a result of this, Rigmora was justified in considering whether to reallocate funds away or to stop providing additional funding to these early-stage companies.

ATTORNEY TAFT: Thank you. I turn over the witness.

ATTORNEY JONES: We have some binders. Can we approach with those?

THE COURT: Sure.

CROSS-EXAMINATION

BY ATTORNEY JONES:

Q. Good afternoon, Doctor. Taylor Jones from Quinn Emanuel for plaintiff.

How are you?

A. Good afternoon.

Q. Doctor, you don't have a medical degree; right?

A. I don't.

Q. You don't have a biomedical

engineering degree?

A. That is correct, I don't.

Q. You've not earned any degrees in the life sciences; right?

A. That is correct.

Q. And none of the courses that you've taught in venture capital investing are specific to the biopharmaceutical industry; correct?

A. If you say specifically, then yes. Of course, the venture capital class I teach cover all the venture capital investments. That would also include healthcare, life sciences, biotech, but not specifically.

Q. Understood.

Biotechnology has never been a specific research area of yours either; right?

A. That is correct. Again, if we understand the specific in the way I already described.

Q. So you're not an expert in biotechnology specifically; correct?

A. No.

ATTORNEY JONES: Let's pull up JX 1318, please. And this is in your binder behind

the tab that says JX 1318, if you'd like to turn there in the paper version, Doctor.

Q. You reviewed this email in preparing your report; correct?

A. That is correct.

Q. This is Mr. Bogdanov's May 15th, 2025, email to Dr. Harrison and others at ATP.

A. That is correct.

Q. And this email is the focus of Section V of your opening report, I believe; is that correct?

A. I don't remember the section number right now, but I believe so.

Q. You, in fact, quote from it in paragraph 57 of your report; correct?

A. Presumably so.

Q. Why don't we turn to your report. That's JX 1576. That's also behind a tab in the binder if you'd like to turn there with me. I'm specifically looking at page 24, that's where you can find paragraph 57.

You quote here from this May 15th, 2025, email, here in your report; correct?

A. That is correct.

Q. And you conclude in your report that a reasonable investor would share some of the concerns that are expressed in this email; right?

A. At least some. I'm not really sure about some or all, but yes, would share concerns, yes, that is correct.

Q. I'd like to look at the first sentence of paragraph 58. You write, "As explained in its May 15, 2025 email to ATP, Rigmora believed that the Early Stage Companies had failed to meet milestones as set forth in their investment memoranda and there was no third-party interest to invest in them."

Did I read that correctly?

A. Correct.

Q. You didn't interview anyone at Rigmora before submitting your reports; right?

A. I did not.

Q. And so the support you cite for this statement regarding what Rigmora believed is in footnote 84 of your report; right?

A. That is correct.

Q. And that cites to paragraph 134 of the complaint, and complaint Exhibit 10; right?

A. That is correct.

Q. Do you remember what paragraph 134 of the complaint is?

A. Not sitting here right now.

Q. Let's turn to tab 1400, JX 1400 in your notebook, please. Paragraph 134 starts on 62 of the complaint. Let me know when you're there.

A. Yes, I do see paragraph 134.

Q. Paragraph 134 is a long quote of the May 15th, 2025, email; right?

A. That is correct.

Q. Let's also turn to Exhibit 10 to the complaint. You'll find that at the back of this same tab. Are you there with me?

A. Yes.

Q. And that is the May 15, 2025, email itself; right?

A. That is correct.

Q. So you don't cite anything else in your report to support an assertion regarding what Rigmora believed; right?

A. That is correct.

Q. You also don't offer an opinion in this case regarding whether Rigmora or Mr. Bogdanov or anyone else at Rigmora were, in fact, reasonable in

their actions; right?

A. I do not. I was not asked to reach such an opinion, one way or the other.

Q. Let's turn back to JX 1318, the May 15th email itself, please. And are you there, Doctor?

A. Yes.

Q. I am looking at the first paragraph after the bullets, the first sentence. "The SLP see no way for a path to commercial success for these Early-Stage Companies, *inter alia*, because: they have failed to meet the milestones set out in the investment memoranda on which SLP's initial funding was premised, the remaining budgets are not sufficient to achieve them, there is no third party interest to invest in these Early-Stage Companies, and any further capital calls would not be in accordance with the milestones and business plans set out in the agreed budgets for the Early-Stage Companies (and the SLP have not consented to these budgets being changed)."

Did I read that correctly?

A. Yes, you did.

Q. And you opine in Part V of your opening report that the early-stage companies raised

issues "That Would Make a Reasonable Investor Concerned About Continuing to Fund Them." Correct?

A. That is correct. I'm not really sure what you mean by Part V. I think maybe Section V.

Q. I should have said Section V, that's right. Thank you.

Now, missed milestones, that's an issue that's mentioned in Mr. Bogdanov's May 15 email that we just read; right?

A. That is correct.

Q. You also discuss it in your opening report?

A. That is correct.

Q. And the May 15th email also states that the remaining budgets are insufficient to achieve the milestones; right?

A. That is correct.

Q. But you don't consider in your reports whether the remaining budgets were sufficient to achieve the milestones; right?

A. That is correct. I was not asked to do it.

Q. Struggling to raise funding from third parties, that issue is also mentioned in the May 15th

email?

A. That is correct.

Q. You do discuss that in your opening report; right?

A. That is correct. I also discuss it in my rebuttal report as well.

Q. Section V(A) of your opening report, that's the section that focuses on whether the preclinical companies missed milestones; correct?

A. I do discuss in my opening report. I don't remember the section number right now. Apologies.

Q. That's not a problem at all. We can turn there if you like. It's -- 1576, again, is the tab. And that section of your report starts on page 25.

So this is the section of your report where you discuss your finding that "The Early Stage Companies Missed Milestones." Right?

A. That is correct.

Q. Now, you opine here that it's "common to require that portfolio companies [hit] milestones to progress to the next round of funding." Right?

A. That is correct.

Q. But you can't give an opinion here on whether the portfolio companies at issue here were required to meet milestones in order to progress to the next round of funding; right?

A. I don't believe so. It seems a legal question to me.

Q. And you're not a lawyer; right?

A. I'm definitely not a lawyer. I'm not qualified to render any legal opinion, only an opinion as an economist.

Q. Thank you.

Paragraph 61 of your report on the next page here, you opine that "a reasonable investor would be concerned about the failure of portfolio companies to meet their predetermined milestones." Right?

A. That is correct.

Q. You didn't determine whether ATP had, in fact, missed milestones; correct?

A. Do you mean ATP or the portfolio companies of ATP, Counsel?

Q. I'll accept that correction. The portfolio companies. You didn't determine whether they had, in fact, missed milestones; right?

A. I did not. I was not asked to do it.

Q. You relied on the lawyers from Debevoise to tell you that the portfolio companies had missed milestones; isn't that right?

A. Well, what I understood is that, from counsel, is that there's another expert, Dr. Ilonna Rimm, who was asked to -- by a technology expert to opine or to investigate whether milestones were missed or were not missed. And that she reached an opinion.

Q. You also don't opine on which milestones were missed; right?

A. That is correct.

Q. And you don't opine on the reasons that preclinical companies may have missed certain milestones; is that right?

A. You mean specific companies at the issue in this matter?

Q. Correct?

A. That is correct, I do not.

Q. You would agree, wouldn't you, Doctor, that a reasonable investor would want to know why the portfolio companies missed milestones?

A. I would say that it depends. Typically, yes. But, of course, as I mentioned, there

are many factors that a reasonable investor would consider, in addition to -- sorry, in addition to missed milestones. A missed milestone definitely would raise, I think, a substantial red flag for any reasonable investor. But then there are other factors at play.

Q. Do you recall providing deposition testimony in this case on August 26, 2025?

A. I do.

Q. I'd like for you to turn to your deposition transcript, which you should have in front of you. I'm going to turn to page 101.

A. I can also look at the --

Q. That works for me. Whatever you would like to do.

A. Thank you. I will look at the screen, if that's okay.

Q. Starting on line 20.

"Question: Okay. Dr. Strebulaev, are you intending to testify that a portfolio company's meeting of milestones that were presented in an investment memo were a prerequisite to the release of funding within the Series A round?"

Mr. Taft objects to form to the extent

it calls for a legal conclusion.

"Answer: I think, Counsel, some words that you use such as 'prerequisite' seems legal to me. But I do intend to testify of course only if asked and called upon that a reasonable investor would review at all times, including in connection with a continuous funding in a Series A round, about how the -- annually the portfolio company is progressing. And that would include whether the company is able to reach its milestones, whether it missed milestones; and if it missed, why it missed milestones."

Did I read that correctly, Doctor?

A. You did.

ATTORNEY TAFT: Your Honor, the full answer was not read.

THE COURT: You can read it during redirect.

BY ATTORNEY JONES:

Q. Now, the second issue you identify in Section V of your report is that there was "no third party interest to invest" in the preclinical companies; right?

A. That is correct.

Q. In paragraph 62 of your report, you

give an opinion as to the reason the preclinical companies were unable to obtain third-party funding; isn't that right?

A. Again, Counsel, I need to see paragraph 62, but I believe that's correct.

Q. Of course. Let's go there. That is on page [sic] 62 of JX 1576. I'm going to try and join you in reading the screen here.

Are you with me there?

A. I am.

Q. In paragraph 62, you write, "If potential new investors had thought that the Early Stage Companies were viable investments, these companies would likely have been able to obtain funding from third parties. Based on my review of the evidence, this was not the case."

Did I read that correctly?

A. You did.

Q. So you're opining here that the reason third parties did not invest is because they didn't think the early-stage companies were viable investments; correct?

A. I was not asked to evaluate whether the investments were viable. But I was asked to opine

how -- in the venture capital industry, what are the indicators that the companies are potentially viable. And one important indicator is the third-party equity interest, which means that if the market, the venture capital market, considered those companies to be of interest, there would be interest from third-party equity investors that would materialize.

And upon the review of the evidence, I have not seen such materialized interest.

Q. And when you say "review of the evidence," you mean emails and deposition testimony in this case; correct?

A. Well, the entirety of the evidence I think that was given me. But that would include depositions and emails I believe, yes.

Q. Let's look at pages 26 to 27 of your opening report. I'm at paragraph 63.

So here, you write, "I have reviewed documents suggesting that ATP tried to find third-party investors and partners in the Early Stage Companies and was unable to do so. ATP's document production includes emails regarding its business development attempts with regard to the Portfolio Companies that show outreach to many pharmaceutical

companies, where the update to those attempts was mostly 'awaiting feedback.' Review of these emails indicates an unwillingness to fund the Early Stage Companies from third-parties. For example, they mention that potential investors and partners were interested in Aethon, Apertor, and Evercrisp but ultimately concluded that it was 'too early' to engage."

Did I read that correctly?

A. You did.

Q. You quote from one of these emails, right, in paragraph 63 to your report?

A. That is correct as well.

Q. And that's this block quote here that I'll read from now.

"I am a fan of the technology and appreciate its potential. The challenge we have had is finding a target that the company sees as commercially viable. As I explained in my email last September, with Sanofi signing a strategic deal for exclusive US over-the-counter rights to Tamiflu® in Flu Care, they are currently unwilling to consider another antiviral for flu. They also aren't sure about the commercial potential of an antiviral for

coronavirus, PIV3 or RSV."

Did I read that right?

A. Yes, but you said it's a quotation from the email. And I think, Counsel, you also read the last sentence, which is not a quotation, if I'm not mistaken. But it's part of my report.

Q. Well, let's go to the email and see. So this is behind JX 0811 in your binder. And I believe the email that you're quoting from is on the page ending in Bates stamp 533, about halfway down the page.

Let me know when you're there.

A. I am with you, Counsel.

Q. And that's the email that you quote in paragraph 63 of your report; is that correct?

A. Is it a question? I'm sorry, Counsel.

Q. This is the email that you quote from in paragraph 63 of your report; correct?

A. I do, with the proviso that if you look at the footnote, footnote 92 of my opening report, this is just one of the emails I quote. I also quote an internal email, and I also quote the deposition of Mr. Jardine as well.

Q. Thank you.

The first sentence of this email, on the page ending in Bates 533, says, "It is great to hear from you. I would certainly appreciate a preview of the data and you are correct our CDA is good until 2028."

You omitted that from paragraph 63 of your report; correct?

A. No. I cited the entirety of the email in -- well, I cited this as footnote 92. I said, "Emails between ATP and Red Queen, March 2024," and then I gave the Bates stamp number. I did not omit the first sentence. I just did not quote from the email --

Q. Got it.

A. -- directly.

Q. So that's exactly what I meant. You didn't quote the two sentences that I just read; right?

A. That is correct.

Q. And you indicate that omission with ellipses; right?

A. I'm sorry, Counsel. I'm not really following you.

Q. Go back to paragraph 63 of your

report.

A. I am there.

Q. You have ellipses at the beginning of this block quote; right?

A. Yes.

Q. And that indicates this omission, doesn't it?

A. Yes. I think really it is -- and apologies if I did not do it correctly, but I think this is the document. And then I say this email that I am quoting in footnote 92 starts at page 553.

Q. Understood.

A. So from this point of view, I think I -- I did not quote the sentence for the space constraints, but I did mean, I think, I believe that email, the entirety of that email.

Q. Got it. Okay. Let's go back to the email again behind Tab 811.

The last sentence here, once you get there, the last sentence here says, "I do think clinical data showing that is having a positive impact in people infected with those pathogens might be able to change opinions."

You left that out too; right?

A. Again, Counsel, I'm not really sure if I left out. Yes, I did not cite anything -- sorry. I did not cite the specific text of the email in my report. I reference to it in my footnote 92. That would include the yellow sentence that you indicated.

That also -- I also did not include the middle sentences as well that, for example, say, and I'm going to quote, "The challenge we have had is finding a target that the company sees as commercially viable." And I think what was important for me is in this email and in the previous --

Q. Let me stop you for a second. I believe you did include that in your paragraph 63; right?

A. I'm sorry?

Q. You did quote that in your paragraph 63.

We can move on, Doctor. It's not important.

You did not use ellipses to indicate that last omission; correct?

A. Sorry. Again, Counsel? I'm not really sure I follow.

Q. That's okay. We can move on.

A. I believe the way I used ellipses is to indicate where you can find that email.

Q. That's fine. Let's move on, Doctor.

Let's turn to JX 786. Here, I'm looking at the page ending in 003. And this is a document that you reviewed during your deposition; right?

A. That is correct.

Q. And I'm looking at the email in the middle of the page. It says, "Dear Seth and Anna, Given the latest news re syndications where various funds expressed sanctions concerns toward[] assets ownership structure, we have requested memorandum from Debe clarifying this matter as per US sanction laws. We have explicitly asked for a Memo that can be shared with the Fund and its advisors so that we can share it with you. Kind regards, Anna Kolonchina."

Ms. Kolonchina was an employer of Rigmora; right?

A. That is correct, I believe.

Q. Now, in reaching your conclusion in Part V(B) that third parties would have invested if they thought the preclinical companies were viable investments, you didn't consider that third parties

might be concerned about investing because of U.S. sanctions against Dmitry Rybolovlev; correct?

A. I did not, and I have not seen any evidence in the record from third-party investors that indicated that concern.

Q. You conclude in your report that the performance of the pools containing the preclinical companies was "below its peers, and substantially below top performing comparable funds." Right?

A. That is correct.

Q. The May 15 email doesn't discuss the performance of the pools containing the preclinical companies as compared to its peers; right?

A. I believe that's the case.

Q. You prepared that analysis of comparable companies solely for this litigation; correct?

A. Well, yes, I was retained as an expert witness for this litigation. That is correct.

Q. In roughly June 2025?

A. Well, while my work was done roughly in June, August -- June, July 2025, the information that I used was as of December 2024. The exact details are explained in my methodology that I used to

prepare the comparison in my report.

Q. You don't claim anywhere in your reports that Rigmora conducted this analysis before sending the May 15 email; right?

A. I do not.

Q. You also read the LPA as part of your work for this case; isn't that right?

A. I did, of course, as an economist.

Q. And there's nothing in the LPA that says capital commitments depend on whether the portfolio companies are performing in the top quartile; right?

A. I think that might call for a legal conclusion.

THE WITNESS: Your Honor, if I may, I will answer.

A. I don't remember seeing this.

Q. Two out of three of your principal conclusions involve a concept that you call a "reasonable investor." Right?

A. Two out of three? I'm not really sure what you mean by three, Counsel.

Q. You discussed the concept of a reasonable investor in your report; correct?

A. That is correct.

Q. A reasonable investor, would you agree, has access to information an investor would want to make a decision?

A. That depends.

Q. Turn back to your deposition, please. I'm on page 32, starting with line 19.

ATTORNEY JONES: Marco, do we have that?

Q. "Question: What is your definition of 'reasonable investor' as you have used it in your report that's been marked as Exhibit 1?

"Answer: A reasonable investor is an investor who is a rational economic agent and will be making decisions in light of all [] the information that an investor possesses, so information an investor would like to possess to make a decision."

So the investor has access to all the information the investor would want to make a decision; right?

A. No, that is not correct, Counsel. So what I said is that "all of the information that an investor possesses." Sometimes the investor would find it -- a reasonable investor would find it in that

investor's interest to delegate decision-making to some others.

So, therefore, to make a decision you don't need to try to get more information. But yes, if you already have this information, then you typically would utilize it.

Q. You're not aware of Rigmora retaining any biotech consultants before it sent the May 15 email; right?

A. I don't know one way or the other.

Q. Now, you have this opinion that I believe you testified about a moment ago, in Section III(D) of your report, that a GP's interest can diverge from an LP's interest in relation "to providing additional rounds of funding." Right?

A. That is correct.

Q. And that can create a conflict of interest that can also be a concern to a reasonable investor; correct?

A. That is correct.

Q. But you would agree that this risk can be mitigated; correct?

A. To some extent, yes, that risk can be mitigated. And one way to mitigate it is by the

general partner, by the fund manager, to provide a substantial capital contribution --

Q. Another way that it can --

A. -- as a limited partner.

Q. Another way that it can be mitigated is to give the LP the right to approve budgets for the portfolio companies; right?

A. So that typically is not what's done. I think this is more or less --

Q. Typically. But that's one way they can be mitigated; right?

ATTORNEY TAFT: Your Honor, if the witness can finish the question without being cut off.

THE COURT: I think the court reporter would appreciate that as well.

But I encourage you to listen to the questions as well.

THE WITNESS: Thank you.

ATTORNEY JONES: Apologies. I'll slow down.

THE WITNESS: Would you repeat the question, Counsel. I apologize.

BY ATTORNEY JONES:

Q. One of the ways that that conflict can

be mitigated is by giving the LP the right to approve budgets for portfolio companies; right?

A. So in the cases where there is one major LP, that could be one of the ways. But I would not say it's mitigated. I would say this is one of the factors that should be taken into account. This does not eliminate the potential conflict of interest, especially if some or all of the companies are underperforming.

Q. In this case, Rigmora did have the right to approve budgets for portfolio companies; right?

A. I believe that is the case.

ATTORNEY JONES: Can we just pull up Slide 5 to your demonstrative again.

I'm sorry. The very last slide is what I'm looking at. That's it. Thank you.

Q. This slide doesn't account for the fact that Rigmora has to recover the full amount of its capital contributions before Dr. Harrison receives any carry; right?

A. That is correct, which is the, as I mentioned, the idea of the carry, is that limited partners first recover the capital contributed to the

fund, and then the carry is shared, or the profits are shared, rather, between the limited partner and the fund manager; in this case, Dr. Harrison.

Q. And this slide also doesn't account for the fact that Rigmora receives over 90 percent of the profits in Pools V-1 and V-2; right?

A. I'm not really sure what you mean by that. Of course it does account because, as I understand, there's really only two beneficiaries here, which is Rigmora and Dr. Harrison. So Dr. Harrison receives 7.5 percent of carry. Rigmora does not receive carry because Rigmora is a limited partner.

So carry is received only and only by Dr. Harrison and his trusts.

Q. And you understand that Dr. Harrison does contribute capital to Pool V-3; right?

A. That is correct. I believe that he contributes around .3 percent. I may be mistaken on the number. But his carry in Pool V-3 is also larger. It's about 11.2 or 11.3 percent.

Q. Pool V-3 is not on this slide; right?

A. I did not include it on this slide because it does not include -- because none of the --

as I understand, none of the early-stage companies in the matter are included in Pool V-3.

Having said that, if you include Pool V-3 on the slide, my opinion would not change.

ATTORNEY JONES: No further questions. Thank you.

ATTORNEY TAFT: No further questions, Your Honor.

THE COURT: Thank you.

THE WITNESS: Thanks so much.

(Witness excused.)

ATTORNEY BARLOW: Your Honor, plaintiffs are going to call Spiros Liras.

SPIROS LIRAS, having first been duly affirmed, was examined and testified as follows:

ATTORNEY BONACORSI: Good afternoon, Your Honor.

DIRECT EXAMINATION

BY ATTORNEY BONACORSI:

Q. Good afternoon, Dr. Liras. Can you please introduce yourself.

A. Yes. I'm Spiros Liras. I'm a drug discovery and development professional. I've been working in the business for about 30 years. I have a

Ph.D. in organic chemistry.

I started my career at Pfizer, where I was at for 24 years. I was vice president of research at Pfizer, leading programs in multiple disease areas spanning from neuroscience to cardiovascular-metabolic diseases and rare diseases. I was fortunate to have led teams that deliver nearly 50 compounds into clinical development.

Q. How long have you been at ATP?

A. I left Pfizer in 2018. I joined Biogen for a very brief period of time, about 15 months, where I established the external portfolio innovation unit. Reason of this was to basically promote entrepreneurship.

And while I was at Biogen, I was recruited by ATP. It was a compelling opportunity for many reasons, in part because ATP had a fantastic reputation in terms of actually going and building companies from scratch, from very nascent research, which is where I lived in for all my life, really, professionally, to a great success in terms of turnovers by exits and other measurements.

At the time that I was hired, our managing director, Seth Harrison, was building an

exceptional team of expertise with other partners. Some of them I had tremendous respect for and I always looked forward to working with.

And I think the last and most important thing is that Seth had a tremendous respect, hopefully still has, for chemists. I'm a chemist, and I really appreciated that as an added advantage.

Q. Are you a venture partner with ATP?

A. I am.

Q. And what do your responsibilities include as venture parter of ATP?

A. Predominantly to select projects, to liase with the external environment, identify compelling opportunities.

Subsequent to this, sort of like invest my time in terms of building a coherent and convincing investment thesis, which is then approved by the ATP investment team, which encompasses all venture partners. Ultimately, the decision to fund is Dr. Harrison's.

Once a company is funded, we compile a pretty thorough investment memo which kind of serves as a roadmap from the implementation of a project all the way to the delivery of value as measured by exits.

That's a pretty complicated and comprehensive document, which includes an investment thesis, the rationale, which is the foundation, the quality of our founders, several sections that relate to what we call milestones, which are forecasts and projections that measure progress against stated goals. We also have risk mitigation strategies that appear in the investment memo. We do comparables to assist how novel the science is and how potentially valuable it will be to patients and investors.

Q. And in addition to your role as a venture partner with ATP, do you have any roles within the portfolio companies?

A. Yes. I am a CEO of a company called Deep Apple Therapeutics. I was a funding CEO for a number of companies, which I thought it was an extraordinarily attractive aspect of my job at ATP because in addition to selecting and funding a project, we spent a great deal of our time building teams. And that's quite fantastic because we work with some of the smartest people on earth. Quite frankly, all of our founders at ATP have been members of national academies of medicine, science, winners of breakthrough prizes, Nobel Prizes, amongst other

things. It's an exceptional opportunity to really engage with a cohort of people that shape the science as we know it today.

Q. And was this dynamic between ATP and its portfolio companies one the factors that caused you to join ATP?

A. Yes.

Q. At a high level, how would you describe your responsibilities within the portfolio companies, to the extent you have a role?

A. Yeah, early on, it's about team building and about guiding the scientific progress of the portfolio. For a specific company we select team members, we hire people. It actually has a pretty wide breath of scope.

For example, we even explore real estate opportunities for best fit for the companies that we create. But some of them had specific needs.

Progressively, as the company advances and matures, we hire people that are more relevant to the needs at time, meaning that we will hire translational biologists when we have something to translate. We will hire chemists when we have something to produce and evaluate to work to enable

the journey of the company.

One of the things that I would like to highlight for companies of ATP, certainly the ones that I was involved in, is that they're extraordinarily efficiently managed financially. Most of them actually for the tenure of five years had less or just about 20 people, for the most part, with the exception of one.

Q. Okay. And you just mentioned investment memorandum. Did you help prepare investment memorandum for the portfolio companies you were involved in?

A. I did. I was a co-author.

Q. Could you describe, at a high level, the purpose of the investment memorandum.

A. It's basically to capture all aspects that justify the spend, from strategy all the way to operation and execution, and also a pretty diligent time-bound, obviously, effort to understand the marketplace and how this company fits and differentiates.

Q. I think you may have mentioned this earlier, do the investment memorandum contain what's known as milestones?

A. It did in the title.

Q. And what is the purpose of the milestones within the investment memorandum?

A. For us, the milestones were basically forecasts of a time and point in which we had credible data to guide three decisions: One is we continue as planned. The other was there's compelling data to pivot and change the direction of the company. And the other, obviously, always in scope was whether there was enough data to convince us to exit the investment. That's kind of the comprehensive purpose of what we called milestones.

Q. And do you understand the milestones to be a static requirement to receive additional funding for the portfolio companies?

A. No. And they shouldn't be because this is early research, and it changes quite rapidly.

Q. And were you ever told by anyone at ATP that milestones had to be hit to receive additional funding?

A. No.

ATTORNEY BORN: Objection, calls for hearsay.

THE COURT: Overruled.

BY ATTORNEY BONACORSI:

Q. Dr. Liras, when you were working at Pfizer, did they take the same approach with respect to milestones?

A. Every time. We build what we called project operating plans. I had forecasts and projections for key delivery, and we defended those either on a quarterly basis or biannually in front of senior leadership in presentation.

Q. And did you understand the milestones to be substantive decision points with respect to research and development?

A. Yes.

Q. And not related to requirements to receive funding?

A. Absolutely.

Q. And in your experience at ATP, have there been circumstances when a company pivoted from the milestones set forth in the original investment memorandum?

A. Many times. For good reason.

Q. Can you provide a few examples.

A. Sure. Apertor Pharmaceuticals is one of our companies where we originally conceived the

possibility of delivering a vaccine enhancement product. As many of us remember, that was 2021, 2022. It was the thick of the pandemic. We were encouraged by our SAB to do so. We found the clinical candidate. I met the objectives.

We went through a thorough commercial and clinical evaluation analysis and convinced ourselves that clinical development at the time of the pandemic with immunocompromised people was not going to be productive. So we pivoted from that.

We knew we had a very valuable platform in synthetic biology. And we discovered that that could be deployed against oncology targets with high medical need with not really a lot of availability of frontline cases, treatments of patients.

Q. In your opinion, is a pivot like that one that indicates positive development for the portfolio company?

A. Yes, in this particular one and in many other cases.

Q. And would you describe this flexibility with respect to milestones as a benefit of ATP's model?

A. I do, because in the way that we construct our thinking about companies, we not only spell out what aspirational may be possible, but also what may not and where the risks are. And we contemplate those risks in an effective way to actually mitigate and preserve the investment and actually enhance the value of the investment.

Q. And thinking about your experience in biotech more generally, is pivoting something that exists outside of ATP?

A. I would argue that most successful companies in the history of biotech have pivoted. I can offer one fantastic example. There's a company called Gilead in South San Francisco. Gilead is a known antiviral company these days. They started as an oligonucleotide company completely irrelevant to the current mission.

In the early '90s, as everybody recalls in San Francisco, there was different pandemic, HIV. A lot of people were losing their lives. Gilead, as a courageous company, decided to dedicate their resources to solve antivirals, and they did this multiple times. In fact, they have produced hepatitis C, small molecule treatments that are

curable. Now people no longer have to go through liver transplants. And I think this is one example where a company listened to actually what was the -- an immense and incredibly urgent social need as well as followed an opportunity for breakthrough science.

As part of the story, actually, Gilead outlicensed its oligonucleotide platform to a company called Ionis, which in itself is the most -- one of the most actually revered companies for the liver in early oligonucleotide therapeutics. So it was a win-win for everybody.

Q. Pivoting back to Apertor -- and that's one of the preclinical companies you're responsible for?

A. That's correct.

ATTORNEY BONACORSI: Can we pull up JX 095, please.

Q. Do you recognize this document as the investment memorandum for Apertor?

A. Yes. This is the investment thesis, the executive summary, which basically contemplates -- it's a summary of the rest of the investment memo presented in a more strategic fashion. It has all the key elements that we described subsequently in more

detail.

Q. Okay. And did you draft this memorandum?

A. I did.

Q. And turning to page ending 0002, do you see the subheading here "Investment Thesis"?

A. Yes.

Q. And what is the purpose of this paragraph?

A. It's to lay out actually what would be not only the first indication that will create value for patients, but also subsequently ways to build on the breakthrough science that the company delivers to expand and build and accelerate investment and success basically.

Q. And this section is informed by the scientists and chemists working at the portfolio company?

A. Yeah, this is -- and many in the ATP cohort, actually.

Q. Can we turn to page ending 0027. And is this -- this section here refers to milestones. Is that what you were mentioning earlier?

A. Yes.

Q. And these were set out before the company was ever funded?

A. These were set up before the company -- before the company was funded. In fact, that memo somewhat precedes that decision. And they are underpinned by no data, to be fair, because this is breakthrough science. So what we do there is we apply our knowledge of reasonable transitions, where we can deliver a body of data that will convince us about and support the three points that I raised earlier, which is continue, pivot, or discontinue.

Q. And do you see in front of you there's Tranches 1, 2, 3, 4, 5?

A. Yes.

Q. And could you describe Apertor's progress with respect to Tranches 1 through 3.

A. Even if you take those tranches literally -- and some of them are diagnostics. For example, just to point out your attention to Tranche 1, there's no reason to actually count how many compounds you make at a company. You don't judge a company by how many compounds they've made. Be that as it may, the company exceeded by a long shot the number of compounds that were specified.

Importance is to focus on milestones that represent hard currency, in my opinion. Those are INDs and development candidates. Especially INDs, which are regulatory documents. We submit those to the regulators.

If you actually look at Apertor's delivery when you add up that investment memo to $33 million, which is a completion of Tranche 4, we were expected to have delivered an IND and a development candidate. What we delivered -- two development candidates with an investment as of May 29th of $29 million. So, in fact, we never were actually funded to achieve the delivery of this full tranche.

Having said that, as we model it subsequently, it would have taken us $1.5 million more of an investment to get to a full delivery of this milestone, which was aligned with our forecast. But we were not given that opportunity.

Q. And in your opinion, would you say that the company overperformed vis-à-vis the funding they had received up to that point?

ATTORNEY BORN: Objection. Leading. I've been letting this go, but ...

THE COURT: The same instruction applies, Counsel. And you have been leading the witness. And that's fine, but it's hard for me to assess the credibility of the witness if you do so.

ATTORNEY BONACORSI: Understood, Your Honor.

BY ATTORNEY BONACORSI:

Q. Dr. Liras, you mentioned earlier Apertor had a period where there was a pivot?

A. Yes.

Q. Looking at these tranches, could you explain at what point the pivot occurred?

A. I would say the pivot occurred right about -- definitely by the completion of Tranche 3 and in the beginning of Tranche 4. In fact, I remember vividly that the investment that we made at the time was about $24 million, if not 25.

Seth, myself, Paul Da Silva Jardine had an exchange by email and other discussions where we actually put all options on the table, including shutting down the company. A breakthrough publication came out at this point of time that told us that the value of the synthetic biology platform was incredible. We deployed that based on that

publication. We extended a very small tranche of $2 million to explore that concept, and this is what ultimately delivered the clinical candidates.

Q. What did this pivot mean for the remaining milestones in the investment memorandum?

A. In a sense, the remaining milestones, again, in a forecasted way, in my opinion, could be achieved had we received the whole investment of the Series A.

Q. And do the investment memorandum also contain a section regarding risk?

A. It does.

Q. And can you turn to pages ending 003, 004.

Can you describe the purpose of this section.

A. Yeah. This is to identify risks based on our state of the knowledge at the moment of incorporating -- or actually at the moment of drafting the investment memo. This is entirely actually aligned with what happened. And it kind of, again, demonstrates the rigor and depth of the ATP team.

We predicted that we could identify compounds, but we predicted that there could be some

ambiguity as to whether -- which indications would make most sense, and we labeled this as a medium risk.

Once we actually decided that because of clinical complexity and commercial reasons adjunctive theory for vaccine enhancement wasn't the way that we wanted to go, we spent the time more thinking and less spending to think what would be the next potential valuable indications. And now we have a couple of indications for targeting renal cell carcinoma and non-small cell carcinoma that are basically guided by genetics, which facilitate patient selection of the clinic, which is a big ask.

Q. Were you involved in providing updates regarding portfolio company progress to ATP?

A. All the time with various means. We had -- obviously, we had board decks that were shared with ATP. We also had quarterly reports that are fact-based in terms of capturing things along progress or along opportunities to pivot. Those were supplied every quarter. And we also had, you know, direct and spontaneous dialogue within the team, as well as the justifications for calling additional tranches.

Q. Okay. Could you describe some of those dialogues.

A. The dialogue that -- the dialogue that I referred between myself and Paul Da Silva Jardine, one of my colleagues, was whether we should actually consider promoting shutting down the company. We went through a very thorough debate about this, analyzed the literature, and decided that that wasn't really a desired path. We presented the case to Seth. We agreed that we would get a small investment, it was $2 million, to actually prove the new hypothesis. And that was pretty material to the progress of the company subsequently.

Q. And do you know whether any of the updates went to Rigmora?

A. Through the quarterly reports I think they did.

Q. And did you assist with drafting or drafting portions of those quarterly reports?

A. All the time. I received direct feedback from scientists about specific scientific facts, but I authored the final version which was submitted to ATP.

Q. And do you recall receiving outreach from Rigmora about the progress of the portfolio companies?

A. Not ever.

Q. And can we turn to JX 560, please.

You see this is an email from an Anna Batarina to Anna Kolonchina and others at Rigmora, attaching the first quarter 2023 quarterly report?

A. Yes.

Q. Flipping to the next page, do you recognize this as "First Quarter 2023 Report"?

A. I do.

Q. And you testified earlier that you drafted the updates in this report for the companies that you were involved in?

A. That's correct.

Q. And can we turn to the bottom of 0011, please.

Dr. Liras, is this the update for Apertor?

A. Yes, it is.

Q. Can you summarize for the Court the purpose of this update and what you're describing here.

A. Yeah. Essentially, this follows one decision to pivot. And therein we state that we performed comprehensive analysis by basically engaging

all aspects of ATP's colleagues, including commercial assessment as well as medical assessment. And we concluded that oncology in renal cell carcinoma will be one of the most productive ways to go and also identified evergreen opportunities in research areas outside of oncology.

Q. And could you read the paragraph starting "With key data" at the bottom.

A. That's right. There we -- we typically socialize companies as they come closer to delivery of a developing candidate or an IND. And we actually anticipated -- we made a schedule basically to accelerate the research and also accelerate the presentations and the content of the presentation so we can meet and have productive interactions with business partners. That's something that we do as par for the course across all companies.

Q. And is it your understanding that Rigmora received these quarterly reports?

A. Yes.

Q. And do you recall whether after receiving this Q1 2023 quarterly report, Rigmora provided additional funding to Apertor at a point in time?

A. Yes.

Q. And pivoting subjects here a little bit, are you familiar with stock purchase agreements between the portfolio companies and ATP?

A. I am.

Q. And did you have any role in drafting those?

A. I read and signed the documents as a representative of the company.

Q. And could we pull up JX 1329, please.

And do you recognize this document, Dr. Liras?

A. Yeah. This is a Deep Apple Therapeutics SPA.

Q. What is the purpose of this document?

A. It basically -- it's a legal contract between the purchaser and the company to sell stock, and it's essentially a legal agreement to do so.

Q. Can we turn to the page 0038, please. And do you see this, Dr. Liras, here? This is section 1.3(d).

A. I do.

Q. Could you please read the first sentence of this clause.

A. "Notwithstanding the foregoing, the Purchaser shall have the option, at any time, and upon at least three [] business days' notice to [] Company, to accelerate its obligation to purchase all or a portion of the Additional Shares (at a [] share price equal to the Purchase Price), notwithstanding [the] Milestone has not occurred."

Q. And do you have an understanding as to what this sentence means?

A. It means that the buyer can choose to buy stock independent of success of said milestones.

Q. And the buyer here is who?

A. ATP.

Q. And do you recall testifying a few moments ago that Deep Apple is another company that had a pivot with respect to the milestones?

A. I did.

Q. And could you describe the pivot with Deep Apple.

A. Yes. So we built Deep Apple on the basis of a fairly broad research platform. There, we identified targets that spanned a number of disease areas from psychotherapeutics and neurogeneration to oncology, inflammation, immunology, and genetic

obesity. Those were targets that were actually included in the initial investment memo.

Shortly thereafter -- I should also mention that Deep Apple has scientific leadership that probably adds up to 100 years in experience in cardiometabolic diseases. If not that, pretty close to that.

We engaged with KOLs. Because of our genetic obesity target, we were told that this was the time to move in, all-in, in obesity. Obviously this was supported by the clinical success and commercial success of medicines like GLP-1.

So we basically substituted 80 percent of that portfolio, kept only two targets, and rebuilt a portfolio of obesity, which now is yielding several clinical candidates, one of which -- one of the programs, an early program I might say, served as a basis of a very lucrative, strategic partnership with Novo Nordisk valued at $812 million. Novo Nordisk is potentially one of the two most recognizable names in the treatment of diabetes and obesity these days.

Q. Did you keep ATP updated on the progress of potential business development deals?

A. Yes, in a very progressive manner. We

started talking about discussions under CDA in our quarterly reports. We escalated that description to include description about the progress of the CDAs.

For example, I recall that we put in that with Roche we were in a co-creation of research plan, which is a necessary next step after people like what they see under confidentiality.

Then we proceeded to build term sheets. Deep Apple was fortunate to have term sheets from four or five companies, the who's who actually, because it was a company that was highly visible by that time. We negotiated that in good faith with three potentials, and we settled with Novo Nordisk on June 11th of 2025.

Q. And were these negotiations or the status of those discussions reflected in the quarterly reports?

A. Yes. And in fact, in our board decks, we also displayed all the term sheets with all financials.

ATTORNEY BONACORSI: Could we pull up JX 824, please.

Q. And, Dr. Liras, is this an email from Anna Batarina to Anna Kolonchina attaching the 2024

first quarter quarterly report?

A. Yes.

Q. Turning to page ending 002, do you recognize this document as that quarterly report?

A. I do.

ATTORNEY BONACORSI: And could we turn to 0014, please.

Q. Does this appear to be the summary you drafted on Deep Apple?

A. That's correct.

Q. And could you read the third paragraph please?

A. "Given the intense interest in obesity, the company is in active and confidential discussions with major venture groups including Atlas Ventures, Foresite Capital, Orbimed, Vida Ventures, Alpha Wave, and Blue Owl. Similarly, the company is exploring in parallel strategic partnerships with pharma including Roche, Novo Nordisk, Lilly, Pfizer, and Merck for obesity, and AbbVie, Argenx, Blueprint, and Otsuka for MRGPRX2," which is our inflammatory candidate.

Q. Were these discussions what led to the eventual deal with Novo Nordisk?

A. They did. And like I said before, it was a very competitive process because we had parallel term sheets from Roche and Amgen.

Q. This quarterly report was provided to Rigmora?

A. Yes.

Q. And did you receive any questions from Rigmora about these discussions?

A. No.

Q. And switching gears a little bit. With respect to your management oversight of the portfolio companies, how did you build the teams of personnel that worked with you in those companies?

A. Within the portfolio specifically?

Q. Or any of the portfolio companies.

A. Yeah, any of the companies.

So in the beginning, we basically, as the company is in an embryonic state, we hire people from founders labs that bring a lot of know-how. And progressively, as we built programs that need specific resources, for example, chemistry, we hire a small chemistry team.

Deep Apple is unique because we invested a good deal of our human resource in machine

learning and computational and cyclical studies because it's really a hot topic in AI and machine learning and drug discovery. So we did that fairly early.

And then, you know, we built -- successfully we hired the head of drug discovery and a head of translational biology as the company began to get closer to clinical development.

Q. And when you were hiring for your portfolio companies, do you face competition in the hiring process from other companies in the biotech space?

A. We always do. And I think a tribute to most of our competence is that we were able to extract people from notable companies, especially in south San Francisco, which is a hotbed for biotechnology.

Q. And how has the lack of funding for the portfolio companies over the last few months impacted the ability of these companies to retain the talent?

A. It's been devastating. On June 17, I had to go to San Francisco for 31 hours to oversee the layoff of about 75 people across four companies.

Q. And if funding resumes, do you believe you'll be able to resume operations at a normal level?

A. I believe that there is a good chance because we have exceptional founders and we have outstanding science. Though the companies at this point in time are obviously operating with skeletal crew.

Having said that, one remarkable thing that is worth sharing is that our company, Nine Square, which now has three scientific employees and one operating officer, just recently secured a term sheet, nonbinding, by a major pharmaceutical company for half a billion dollars in a research collaboration.

And I think that's a tribute to the company, to the resilience of the staff, as well as the visibility and exceptional quality of the science we produced.

ATTORNEY BONACORSI: No further questions. Thank you, Dr. Liras.

THE WITNESS: Thank you.

CROSS-EXAMINATION

BY ATTORNEY BORN:

Q. Good afternoon, Your Honor. Natascha

Born for the defendants.

Good afternoon, Dr. Liras.

A. Hello.

Q. Dr. Liras, in your view, it's not unreasonable to prioritize clinical companies over preclinical companies; correct?

A. It happens quite frequently in pharma and biotech.

Q. In fact, you saw the prioritization of clinical companies over preclinical companies plenty of times when you were working at Pfizer; correct?

A. I did not see that. I saw the prioritization of clinical substrate over preclinical projects.

ATTORNEY BORN: Thank you. No further questions.

ATTORNEY BONACORSI: No further questions.

THE COURT: Thank you, Doctor. You may be excused.

THE WITNESS: Thank you.

(Witness excused.)

ATTORNEY BARLOW: Your Honor, plaintiffs call Yuri Bogdanov. Rigmora will begin on

the questioning.

ATTORNEY BORN: Where should we put the translator? Mr. Bogdanov's English is quite good, but occasionally he needs help with a particular term.

THE COURT: Are the mics at counsel table on?

THE INTERPRETER: Permission if I could sit here.

ATTORNEY BORN: You want to move my chair. Can you sit there? Does that work for people?

THE COURT: Let's swear in witness. We'll deal with the logistical issue. I think it would be better if the translator was miked, but go ahead.

STEVEN LAGUTIN, having first been duly affirmed, interpreted between Russian and English as follows:

THE COURT: Is that okay, that positioning?

THE INTERPRETER: I'd rather be here, but it's okay.

THE COURT: All right.

ATTORNEY BORN: We don't need translation for everything, just if he has a question

about a specific term, we'd like you to be on hand.

THE COURT: Why don't you state and spell your name.

THE WITNESS: Yuri Bogdanov, Y-U-R-I, B-O-G-D-A-N-O-V.

YURI BOGDANOV, having first been duly affirmed, was examined and testified as follows:

THE COURT: Give me one second here.

You can understand English fairly well?

THE WITNESS: Yes.

THE COURT: So if you need translation, you are going to ask counsel for a translation; is that correct?

THE WITNESS: That's correct.

THE COURT: Thank you.

DIRECT EXAMINATION

BY ATTORNEY BORN:

Q. Mr. Bogdanov, could you please introduce yourself for the Court.

A. Well, I'm Yuri Bogdanov.

Q. Do you hold any graduate degrees, Mr. Bogdanov?

A. Yes. I graduated from the Moscow

Finance University.

Q. And what discipline is your degree in?

A. Business and real estate valuation.

Q. When did you receive that degree?

A. In 2002.

Q. Are you currently employed?

A. Yes. I'm employed by Rigmora Holdings Limited.

Q. If I just refer to that as "Rigmora," you'll know what I mean?

A. Yes.

Q. What is Rigmora?

A. Well, Rigmora is the special advisory body for the trustees of the trust, and also the investment vehicle which holds a number of important investments.

Q. You just mentioned the trust. What do you mean by that?

A. It's the Scorpios trust created for the three generations of the Rybolovlev family.

Q. Does Rigmora invest in the biotech industry?

A. Yes.

Q. How so?

A. Well, Rigmora, through the special purpose vehicle, the BVI companies, holds the limited partners' stake in the Apple Tree Partners.

Q. If I refer to Apple Tree Partners as the fund or ATP, will you know what I mean?

A. Yes.

Q. And do you understand those limited partner entities to be the defendants in this case?

A. That's correct. I do.

Q. If I refer to those as the Rigmora LPs or just the LPs, will you know what I mean?

A. Yes.

Q. Do you know where the capital that the Rigmora LPs invest in ATP comes from?

A. It comes from the trust's assets.

Q. And did the Rybolovlev family trust have investments beyond its indirect investment in ATP through the Rigmora LPs?

A. Yeah, the trust has significant investments and assets outside of ATP that included the real estate, other businesses, hedge funds, private equity funds, liquidity positions for many of them.

Q. What is your current position at

Rigmora?

A. I'm co-CEO and chief investment officer.

Q. And how long have you held that position?

A. Since last October, since October of 2024.

Q. And did you have a role at Rigmora before you became the co-CEO and chief investment officer last October?

A. Yes. I held numerous executive positions. But last three or four years, I worked as the special advisor.

Q. And what did you understand your role to be while you held the title of special advisor?

A. Well, to advise the trustees and the management of Rigmora on various matters, including the investments, and act as kind of like the second opinion and sometimes like, if they don't like the content, to challenge the management decisions.

Q. While you held the role of special advisor, did you have any responsibility for managing the Rigmora LPs' investments in the ATP fund?

A. No.

Q. When you were promoted to co-CEO and CIO of Rigmora in October 2024, did that involve any new responsibilities?

A. Yes, obviously. And I, like, began responsible for overseeing a large portfolio of assets and investments and advising trustees on the various matters, including the ATP-related, yeah.

Q. Did you do anything to familiarize yourself with Rigmora's investments when you became CEO?

A. Yes. I reviewed a number of documents, contracts or reports, presentations, yeah, covering those topics.

Q. Did you familiarize yourself with the Rigmora LPs' investment in the ATP fund specifically?

A. Yes, I did. Like, briefly reviewed a number of documents. But, again, at that time, you may know, we had an open litigation, so that was also another focus of my work.

Q. And you mentioned the Rybolovlev family earlier. Do you know Dr. Rybolovlev personally?

A. Yes, I do. I know him for more than two decades. I worked for Uralkali, the business

which belongs to the family trust, in Russia.

Q. Have you ever spoken to Dr. Rybolovlev about the Rigmora LPs' investment in the fund?

A. Yes, I did. Many times.

Q. What impressions, if any, did you form about how Dr. Rybolovlev viewed the Rigmora LPs' investment in the ATP fund?

A. Well, he took them very seriously. And, you know, he has a medical background. He started as a doctor, and he was really very passionate about those investments. It's not just investments. It's like his attempt to do something good for the people.

Q. You mentioned earlier that there was litigation pending when you came in as CEO in October 2024; is that right?

A. That's correct.

Q. What was that litigation about?

A. It was the litigation about the limited partner's right to call the distribution of the particular asset, the Braeburn, and the GP refusal.

Q. Do you know what the outcome of that litigation was?

A. The parties agreed to settle the case.

Q. And did you play any role in the settlement process?

A. Yes. I was the lead negotiator on the Trust side.

Q. Could you outline the settlement for me at a high level?

A. Well, the parties agreed -- well, first, to set certain rules and principles on how the Braeburn will be distributed. The parties agreed to distribute in kind the royalty subsidiary, the special purpose vehicle which holds the royalty, the right to receive the royalty from the Braeburn for the very material amount. And, finally, the parties agreed to discuss certain budgets of five of the portfolio companies.

Q. And was there an amendment to the LPA in connection with the settlement discussions?

A. That's correct. The parties signed the Amendment 22 which is, like, summary of the settlement terms.

Q. Let's turn to JX 1068, which should be the first tab in your binder.

A. Yes, I'm on it.

Q. Is this Amendment 22 that you were just referencing?

A. Yes.

Q. And can you tell me the date of this amendment?

A. It's 20th of December, 2024.

Q. Let's take a look at paragraph 26, which is on page 4.

A. I'm on it.

Q. And we're going to start by looking at the first sentence.

Can you tell me your understanding of what this sentence required the parties to do with respect to budgets?

A. Well, the sentence requires the parties to discuss the new budgets for five portfolio companies in accordance with the process set in the LPA. And those companies are Ascidian, Aulos, Nereid, Nine Square, and Replicate. I used just short names of the companies.

Q. And as the lead negotiator for Amendment 22 on the Rigmora side, why were you willing to commit the Rigmora LPs to discuss budgets for these five companies?

A. Just because it's our investments and our businesses. That's what we usually did. And that's what we planned to continue, to discuss the budgets and analyze the projects and understand the businesses in our investment pool.

Q. Turning to the final sentence of this paragraph, it says that "If any approval of a new budget is given by the [SLP]," and then it refers to "such approval" of a new budget being "contingent upon at least $300 million being realized" by the Rigmora LPs "on a sale or financing of [their] interest in ATP LLC."

Do you see that?

A. That's correct. Yeah.

Q. What, if anything, was your understanding of this provision?

A. Well, the provision introduced the condition for the execution of any budget approval. And that condition was the realization of either a sale of part of the royalty agreement I referred earlier or the refinancing.

Q. When Amendment 22 was executed, were you planning on waiting to discuss any new budget proposals you received from Dr. Harrison until the

Rigmora LPs had $300 million in hand?

A. No. No.

Q. When Amendment 22 was executed, were you planning on waiting to seriously consider any budget increases until the Rigmora LPs had these $300 million in hand?

A. No. Of course not.

Q. At the time this amendment was executed, did you care whether the Rigmora LPs obtained the $300 million financing or not?

A. Of course I did. And I think we started the process even before the amendment was signed. We hired the broker, the professional investment broker, to help us with this transaction.

Q. Could you tell me a little bit more about the process that you were just referring to.

A. Well, it was, again as I said, quite a process. We engaged the Greenhill. It's a broker. It's a part of the Mizuho Group. And I think we started in November, unless I'm mistaken.

And we created a data room. We worked with the broker on the presentation of the case. And we agreed on a long list of potential bidders. We sent more than 60 -- yeah, more than 60 invitations to

bid. And we signed, I think, around 50 of nondisclosure agreements with potential creators. And, again, that was quite a process.

And then when we have short list of candidates, we started the direct discussions of the terms.

Q. And was there any interest in providing the royalty financing?

A. Yes. There was certain interest. And we received, I think, the first bids around February or March, yeah.

Q. What came of that?

A. Say again, please.

Q. What came of that? What happened next?

A. Oh, well, it took longer -- well, for many reasons. Like, in the middle of the process, partially thanks to the new administration steps, the company -- I mean the Braeburn -- started to revisit its forecast. And it was revised significantly. I think that we got some years off by almost 50 or 60 percent.

And we were in the negotiations and discussions with the bidders. But it took quite -- it

took quite some time for them just to understand what is going on with the market. And that's why the process was a little bit delayed.

Q. Have you been able to secure any royalty financing in connection with Braeburn?

A. We haven't yet done it, but we're still working.

Q. After Amendment 22 was signed -- and we can set Amendment 22 aside.

After Amendment 22 was signed, do you recall whether Dr. Harrison got in touch with you about potential budget increases for the five portfolio companies referenced in the amendment?

A. Yes. Shortly after the amendment date.

Q. Let's pull up JX 1079, please.

A. Could you please say again the last digit.

Q. 1079. Sorry. It should just be the next tab.

A. Okay.

Q. Let's start with the bottom email. Is this the email from Dr. Harrison that you were just referencing?

A. That's correct.

Q. And what's the date on this email?

A. 24th of December. It's Christmas night.

Q. Do you remember where you were when you received this email?

A. Yes. I was with my family on a holiday trip in the middle of nowhere in Argentina on the salt flats, is that the right term, yes, in the camp tent.

Q. Is Christmas an important holiday for your family?

A. Yes, of course. Like, they raise certain protests when I just work on that night. Not as important, where Russians has the Orthodox Christmas and New Year, but also important one.

Q. And so you mentioned that you worked on this night. It sounds like you did not wait until after the holidays to review the information Dr. Harrison sent?

A. No. I -- like, well, first I read those materials, and I forwarded them to my team and asked them to start work.

Q. What was the work that you and your

team did?

A. Well, we analyzed the materials, we reviewed some other documents, including the original investment memorandum -- memoranda -- and we started drafting a list of the questions, follow-up diligence questions.

Q. There's a reference in this email to D-rooms containing supporting materials. Do you know what Seth Harrison meant by "D-room"?

A. I think it refers to the virtual data room with some supporting documents.

Q. And did you and your team review the documents in the D-room?

A. I personally struggled to get in access, but I think that my team members finally got the access, or it took like few days. There were some IT issues I remember.

Q. What did Dr. Harrison propose with respect to Nereid in his December 24 email?

A. I'm just trying to find it. Okay. So on the Nereid, Dr. Harrison proposed what he called a synergistic merger with another portfolio company, Marlinspike.

Q. And did you discuss Dr. Harrison's

proposal for merging Nereid and Marlinspike with Dr. Harrison?

A. Yes, I recall we had a follow-up Zoom call, I think in early February.

Q. Do you recall what the Rigmora LPs' position was on that call?

A. Well, we, in principle, agreed with the proposal. But we understood that Dr. Harrison would require some further investigation on some tax and legal aspects of that merger.

Q. Did you hear anything further from the GP about the proposal for a Nereid-Marlinspike merger?

A. I think no, up till the very end of April, early May when he mentioned that.

Q. What did he mention?

A. He said that he stopped the merger because of certain legal issues and apparently a very expensive lease that they wanted to cancel. And apparently they were considering a different way for the bankruptcy, or Chapter 5, if I'm not mistaken.

Q. Was that the last you heard from the GP about its proposal concerning Nereid and Marlinspike merging?

A. That's correct.

Q. After Dr. Harrison's December 24 email, did you ever receive a budget request for Nereid that did not involve a proposed merger with Marlinspike?

A. No, to the best of my recollection, we didn't receive it.

Q. Looking back at Dr. Harrison's email, what did he propose with respect to Nine Square?

A. On the Nine Square, he proposed to increase the budget for another 15 million.

Q. Did you engage with the GP about discussions for a potential budget increase for Nine Square?

A. I think that we, probably in February, I don't remember the months, we agreed to discuss the Nine Square budgets once we have the royalty financing done.

Q. Did the GP ever follow-up on the potential budget increase for Nine Square after that call?

A. No.

ATTORNEY BORN: I'm just conscious that we have about five minutes left. We're about to get into a longer chunk, it might make sense to --

THE COURT: To break for the day?

ATTORNEY BORN: Yeah.

THE COURT: So we resume at 9:00 a.m. tomorrow.

And I'll have my assistant email Mr. Barlow and Mr. Rohrbacher to confirm the timing of the day so you-all know what to expect.

With that, we are adjourned. Thank you.

(Court adjourned at 4:54 p.m.)

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IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

ATP III GP, LTD., in its capacity as General Partner of ATP Life Science Ventures, L.P.,	:	
Plaintiff,	:	
v	:	C. A. No. 2025-0607-KSJM
RIGMORA BIOTECH INVESTOR ONE LP and RIGMORA BIOTECH INVESTOR TWO LP,	:	
Defendants.	:	

- - -

Chancery Courtroom 12B
Leonard L. Williams Justice Center
500 North King Street
Wilmington, Delaware
Friday, October 17, 2025
9:00 a.m.

- - -

BEFORE: HON. KATHALEEN St.J. McCORMICK, Chancellor

- - -

TRIAL TRANSCRIPT - VOLUME II

APPEARANCES:

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Appearances Cont'd ...

APPEARANCES CONT'D:

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of the New York Bar
Debevoise & Plimpton LLP
for Defendants

ALSO PRESENT:

STEVE LAGUTIN, Russian Interpreter

- - -

THE COURT: Good morning.

ATTORNEY BORN: Good morning, Your Honor.

THE COURT: Anything else we need to attend to before we begin or resume witness examination?

ATTORNEY BORN: I don't believe so, not on our end.

ATTORNEY BERDON: Not from plaintiff, Your Honor.

THE COURT: Let's proceed.

YURI BOGDANOV, having been previously affirmed, resumed and testified as follows:

DIRECT EXAMINATION (Cont'd)

BY ATTORNEY BORN:

Q. Good morning, Mr. Bogdanov.

A. Good morning.

Q. I'd like to pick up with JX 1079, which is the second tab in your binder.

A. I'm on it.

Q. You remember yesterday we talked about the discussions concerning Nereid?

A. That's correct.

Q. And you remember yesterday we talked

about the discussions concerning Nine Square?

A. Yes.

Q. I would like to turn to the third company referenced in this email, which is Replicate. What did Dr. Harrison propose with respect to Replicate in his December 24 email?

A. He proposed to consider another budget increase for 11 million.

Q. Did he say anything else about Replicate in that email?

A. Yes. He noted that Replicate would run out of the cash by the third week of January.

Q. Did you take any action based on that part of the email?

A. Yes. We set Replicate budget as our priority and worked for the holidays.

Q. What did that work look like?

A. As I said, we analyzed the materials, we drafted the list of the follow-up diligence questions.

Q. And did you send those questions to Dr. Harrison?

A. Yes, shortly after the new year, I sent an email with those questions.

Q. Do you recall what questions you had for Dr. Harrison about Replicate?

A. Yes, I do. It's kind of like basic diligence questions on the company's past performance, on how the company executed its original plan, some questions on the progress on their clinical programs, and some questions on the economics of the partnership deals the company was considering at the time.

Q. Why were you interested in understanding how Replicate had performed in the past?

A. Well, it's one of the, like, most important indicators before you make any decision on the new budget to see how the team and the company performed against their original programs, to see whether they can deliver.

Q. Let's turn to JX 1107.

A. Could you say again the number?

Q. 1107. I think it's two tabs down.

A. Uh-huh.

Q. Is this an email from you to Dr. Harrison dated January 5?

A. That's correct.

Q. And does this attach the list of questions you were just discussing?

A. That's correct.

Q. You can set that document aside.

Did you have any meetings concerning the Replicate budget with the GP?

A. Yes. We had an in-person meeting in Monaco in mid-January.

Q. And who attended that meeting?

A. Dr. Harrison, Dr. Rybolovlev, Anna Batarina. Well, actually, it was a series of meetings in a couple days. Then we were joined by the Replicate COO.

Q. Can you describe the meeting with Replicate's CEO for me?

A. Well, he presented the company's case, he explained what they were proposing to us. We asked a number of questions, partially addressing those questions I sent to Dr. Harrison earlier, and we discussed the budget needs of the company for the 2025.

Q. Was the meeting with the Replicate CEO helpful to you as you assessed Dr. Harrison's request for a budget increase?

A. Yes, it was pretty helpful. It helped us to just finally make a conclusion on that.

Q. Do you recall whether Dr. Harrison asked the Rigmora LPs to provide any capital for Replicate while you were considering the proposed budget increase?

A. Yes. Dr. Harrison proposed to consider bridge financing, and we did it in a matter of days.

Q. Do you recall whether the Rigmora LPs approved the $11 million budget for Replicate that Dr. Harrison had proposed on December 24th?

A. We approved finally an even bigger budget of 18 million, and I think we did it in the very beginning of February, right.

Q. Let's pull up JX 1193.

Is this the Rigmora LPs' email approving the budget for Replicate and the attached budget approval?

A. That's correct.

Q. Do you recall whether the Rigmora LPs placed any conditions on the approval of the budget?

A. Well, there was an existing condition introduced by them in '22, the completion of the royalty financing. And on half of the budget there was another condition added, the completion, the

closing of the Latin deal the company was considering at the moment.

Q. Do you recall whether the Rigmora LPs provided any capital pursuant to this budget after it was approved?

A. Yes. We made another capital call of $5 million.

Q. And at the time that the Rigmora LPs paid that capital call, did you have a view as to whether either of the conditions on the approval of the Replicate budget were satisfied?

A. They were not satisfied.

Q. Why did the Rigmora LPs fund the capital call for Replicate, despite your view that the conditions on the approval had not been satisfied?

A. Because it's our company, it's our investment. We did care about the company's progress. That's why we decided to pay it.

Q. Let's turn back to JX 1079, which is the second tab.

A. I'm on it.

Q. This is the December 24 email from Dr. Harrison again?

A. Wait. I opened the wrong tab. Yeah,

I'm on it.

Q. What did Dr. Harrison propose for Aulos?

A. For Aulos he proposed to support the management recommendation and approve the additional budget of 28 million.

Q. Did you have any in-person meetings with Dr. Harrison concerning a potential budget increase for Aulos?

A. Yes. I think we had the meeting in March, mid-March in Monaco.

Q. And who attended those meetings?

A. Dr. Harrison, Dr. Rybolovlev, Anna Batarina, I -- and, for the first half, we also had the external consultant who made their review of the company's program. And then we were joined by the Aulos management.

Q. Did you do anything to prepare for the meeting in advance?

A. Yes. We received the materials 24 hours before the scheduled meeting. We tried to analyze them and draft a list of the questions we were going to ask.

Q. You mentioned a moment ago that an

independent consultant attended that meeting about Aulos. What did you mean by independent consultant?

A. There was like a retired executive, I believe he worked for Gilead before in one of the senior positions, and he was retained by the partnership to assess two oncology programs of the fund, namely Aulos and Marengo.

Q. What was your reaction to the independent consultant's presentation about Aulos?

A. Well, it was kind of like unpleasant news. We learned that apparently the management made kind of like a fundamental mistake in designing the clinical trials, and that mistake could cost us additional budget and potentially delays in the delivery of the clinical program.

Q. Turning back to Dr. Harrison's December 24, 2024, email, which is JX 1079.

A. It's the same tab; right? Yeah.

Q. What did Dr. Harrison propose with respect to Ascidian?

A. On Ascidian he wrote that they're still considering multiple scenarios, and it would require more discussion and time to understand what variables would emerge as reality by the mid-2025.

Q. Did Dr. Harrison propose a specific dollar amount increase in the budget for Ascidian at this time?

A. At that time, no.

Q. Did you have any meetings with Dr. Harrison to discuss a potential budget increase for Ascidian?

A. Yes. I think it was the same date in March when we met to discuss Aulos.

Q. And who was present for that meeting?

A. Dr. Harrison, Dr. Rybolovlev, Anna Batarina and I. On Ascidian we were joined by two people from the management of the company.

Q. And did you do anything to prepare for that meeting in advance?

A. The same answer. We received the materials 24 hours before the meeting, and we analyzed them and drafted a list of the questions.

Q. Do you recall whether Ascidian's management presented financial projections during the meeting?

A. Yes. They presented three scenarios, as far as I remember.

Q. Do you recall whether those

projections included the time that Ascidian anticipated receiving additional capital from the fund under the existing budget?

A. Yes. I recall that in one or two scenarios, they expected additional funding in Q4, this year; and one or two, I don't remember what was their implication, even later. So I think that they expected the remaining budget to be paid in 2026.

Q. And do you recall when you, in fact, received the next capital call for Ascidian from the GP?

A. Yes. It was -- well, it was Saturday morning, Monaco time, 31st of May. They were sent on May 30.

Q. And did that surprise you?

A. Of course.

Q. How come?

A. Just because it was different from what the company told us. It was different from what general partner told us in late April when he shared two forecasts on Ascidian and both forecasts provided for the capital call payment in 2026.

Q. Did there come a time when Dr. Harrison proposed to reallocate funding from

certain of the fund's portfolio companies to other portfolio companies?

A. Yes. I think it was late March this year, right, late March, when we had a Zoom call and he first time introduced this idea to us.

Q. What did you understand his idea to be?

A. The idea was just to move the capital from more risky companies towards more advanced clinical-stage companies of the fund.

Q. How did you react to that proposal?

A. Well, generally positively. We welcome and appreciate any ideas which would improve the risk profile of our investments and increase the return on the investments.

Q. Did you hear anything further from Dr. Harrison concerning the proposal for reallocating funding from the early-stage companies to the clinical companies?

A. Well, yes. He, in the same call, said that he would need more time to develop this proposal in greater details, and then he scheduled another call in late April to discuss the reallocation proposal.

Q. What did you understand the

reallocation proposal to be following the late April call?

A. Could you please rephrase? I don't understand the question.

Q. Yes. You said that you discussed the reallocation again in late April I think?

A. Yes. Right.

Q. What did you understand him to be proposing at that time?

A. Well, the proposal was just to move significant budget from the early-stage companies keeping probably around 40, 50 million for those companies, decreasing, effectively, almost three times the budget for the early-stage companies, and increase the budgets for clinical-stage companies.

Q. Could we pull up JX 1282.

This is an email from Dr. Harrison to you dated April 29, 2025; is that right?

A. That's correct.

Q. And did Dr. Harrison send this following the call?

A. That's correct. On the call he showed us the Excel spreadsheet, and I asked him to send the Excel after the call.

Q. You can put that document away.

By early May of this year, had you formed any conclusions about the fund's investments in early-stage portfolio companies separately from Dr. Harrison's reallocation proposals?

A. Yes, we did. We started our own analysis of the performance of the early-stage companies I think in March, and in March and April we came to certain conclusions, and obviously we realized that many of those companies failed to hit the milestones their investment memoranda provided.

Q. Do you recall how you assessed whether the early-stage companies had met their milestones?

A. Yes. We compared the investment memoranda milestones with the available information in the fund's quarterly digests or sometimes the company's websites or at the FDA database.

Q. Did you feel that you were able to accurately evaluate whether the early-stage companies had hit the milestones?

A. Yes.

So the milestones I designed, to let the investor make an informed decision -- and usually it's kind of like binary events you can easily assess.

Like not in all cases, but the majority of the cases you can do that.

Q. Can you give me an example of a milestone you thought you could assess whether it had been achieved or not.

A. Well, for instance, IND, Investigational New Drug Application. So it's either done or not.

Q. Did you do anything to evaluate whether the early-stage companies that you thought had missed their milestones had pivoted to new projects that could be a commercial success?

A. Well, apparently they pivoted to the new projects; but in order to assess that, you need to review the new investment memorandum that gives you an understanding what would be the new budget for that project and what would be the risks. Obviously we never received the new investment memorandum.

Q. Did you ever receive a formal proposal from Dr. Harrison concerning reallocation of funding from early-stage portfolio companies to clinical companies?

A. Yes. We received it in early May, I think around 10 or 11th of May.

Q. Can we turn to JX 1307.

A. I'm on it.

Q. This is an email dated May 11, 2025, from Dr. Harrison to you and others. Does this attach the proposal you just mentioned?

A. That's correct.

Q. And can you explain to me what you understood Dr. Harrison to be proposing.

A. He proposed to reduce certain budgets for the early-stage companies, dramatically reduce, and increase certain budgets for the clinical-stage companies, namely Aulos, Ascidian, Marengo, and Replicate.

Q. What was your reaction?

A. Well, in general it was in line with our expectations, but with certain changes which looked unacceptable to us.

Q. Could you tell me about the things that looked unacceptable to you?

A. Well, it provided for the, like, waiving of our rights under the LP to review, consider, and approve or not approve budgets, and it gave the full discretion to the general partner.

Q. Did you speak to Dr. Harrison about

this proposal?

A. Yes. We scheduled a call shortly after the date we received that proposal, and I invited my deal lawyers to attend the call.

Q. As far as you can recall, what did Dr. Harrison say on that call?

A. I have really bad recollection because it was very emotional and heated call. It was a short one. I think that we first started with, like, an introduction, saying that we support the idea of moving the capital from the early-stage companies to the clinical-stage companies, but we believed that it should be done in accordance with LP terms and we should consider the new budgets, we should discuss them, and that's it.

And very quickly the call became emotional, heated. The parties started to talk, like, simultaneously. I recall general counsel of ATP was yelling "dollar for dollar, dollar for dollar." And finally Dr. Harrison said, I withdraw the proposal.

Q. Did it surprise you that Dr. Harrison withdrew the proposal?

A. Yes, of course, just because I believed that both parties agreed that it would be in

the best interest of the partnership to move that capital. That came as a very unpleasant surprise.

Q. Did you take any action following that call?

A. Yes, I did. I sent an email just confirming our position on the reallocation proposal and informing the general partner that we were of the opinion that the further funding of the early-stage companies is not in the interest of the partnership.

Q. Did you ask him for any information about the early-stage companies?

A. Yes, of course. We asked him to share with us any proposals that could help to salvage value from the early-stage companies.

Q. And what did you mean by salvaging value from the early-stage companies?

A. Well, we were open to consider old proposal; for example, the proposals to secure funding through the business development deals for the partnerships with other companies or new projects or potentially sale of certain companies, mergers.

Q. Did you address the clinical companies in that email?

A. I think yes. I think I said that we

are still willing to consider the budgets for the clinical-stage companies.

Q. And do you recall when you sent that email?

A. Yes. May 15.

Q. What were you hoping to get from Dr. Harrison in response to your email?

A. Well, I expected that he would engage in discussions with us and to counter us with proposals on the, as I said, like, salvaging the values from the early-stage companies. I expected some cooperation.

Q. Did you ever get the information you were hoping to receive?

A. No.

Q. We discussed earlier today the potential budget increase for Aulos. Did you discuss with the GP the potential budget increase for Aulos after May 15, 2025?

A. Yes, we did.

Q. What do you mean?

A. We sent a list of the questions on the Aulos, and we asked general partner to provide us with, like, the answers to those questions and also

with an update on the company's progress since we met with Aulos management in early March, and it was late May.

Q. Could we take a look at JX 1360.

Is this the email with the questions you had for Dr. Harrison about the potential budget increase for Aulos?

A. That's correct.

Q. And when was that?

A. It was May 22 this year.

Q. Did you receive answers to these questions?

A. No.

Q. Turning to Ascidian, did you discuss with the GP a potential budget increase for Ascidian after May 15, 2025?

A. Yes, I did.

Q. And what do you mean by that?

A. Well, I drafted the list of the questions on the company's new budget and sent it to the general partner.

Q. Can we take a look at JX 1361, please.

A. Could you please say again the last two digits.

Q. 1361.

Are these the questions that you sent Dr. Harrison about Ascidian?

A. That's correct.

Q. And when was this?

A. The same date. May 22.

Q. Did you receive answers to these questions?

A. No.

Q. Did you ever follow up with the GP about your questions regarding Aulos and Ascidian?

A. Yes. I followed up -- sorry.

I followed up I think in a matter of a week and I sent another reminder.

Q. Can we take a look at JX 1375, please.

A. Yes.

Q. Is this the follow-up email?

A. Yes.

Q. And what's the date on this?

A. 28th of May.

Q. Have you heard back?

A. No.

Q. Mr. Bogdanov, do you recall whether the GP issued capital calls on May 30?

A. Yes.

Q. And were you surprised by those capital calls?

A. I was astonished to see this.

Q. How come?

A. Just because all the forecasts the general partner shared with us, and the most recent was dated, like, 28th of April, in two scenarios provided for the calls in the second quarter were in a range of 15 to 20 million, and we received calls for more than 100 million in one night.

Q. Before the GP issued the capital calls on May 30, are you aware of any occasion where the Rigmora LPs did not pay a capital call for an ATP portfolio company?

A. Not a single case. We always paid.

Q. Do you recall whether the Rigmora LPs paid any capital calls after May 15 and before May 30?

A. Yes. We paid two capital calls for two portfolio companies.

Q. Do you recall which companies?

A. One was Initial. I forget the name of the other one.

Q. Let's take a looking at JX 1339. It's

a couple tabs in the other direction.

A. Say again last two digits, please.

Q. 1339.

A. Yes. Initial and Apertor, right.

Q. And this is the email from Rigmora to Dr. Harrison approving the capital calls?

A. That's correct.

Q. And what's the date on this email?

A. May 20th.

ATTORNEY BORN: No further questions.

CROSS-EXAMINATION

BY ATTORNEY BERDON:

Q. Good morning. Andrew Berdon for the plaintiffs.

Good morning, Mr. Bogdanov.

A. Good morning.

Q. Mr. Bogdanov, I'd like to turn your attention first to the capital call that you just testified about. Can you pull up JX 1339, please.

Dr. Bogdanov, taking a look at the last sentence of the email, can you read it, please, out loud, on the record.

A. The last paragraph, right.

Q. Actually, I'll withdraw the question.

It says, "Funding on this basis is acceptable on the SLP as it will enable the orderly wind-down of these companies which is in everyone's interest."

Is that right?

A. That's correct.

Q. So when you told the Court that you had approved a capital call for Initial and Apertor, you didn't mention that you had only approved the money for wind-down costs, did you?

A. We approved the capital call.

Q. You didn't approve a capital call for the purpose of funding research, did you?

A. That's what my email says, right.

Q. Mr. Bogdanov, taking a look at JX 1361.

You said that you had sent a letter to Dr. Harrison offering to provide additional discussions on Ascidian. Under the word "Subject" there's two words there, "Without Prejudice." Without prejudice, why did you put that on this piece of correspondence?

A. I think we responded to the "Without Prejudice" email from the ATP employees.

Q. Did you put it on there so that ATP couldn't cite it against you in any litigation?

A. I'm not a lawyer. I was advised by my counsel.

Q. But you're using it here in this litigation to try and beat ATP's claim; correct?

A. Could you please rephrase the question. I'm not understanding.

Q. You're relying on JX 1361 in this litigation to defend against ATP's claim; right?

A. I rely on this document, right, and on the exchange.

ATTORNEY BERDON: Let's pull up JX 1360, please.

Q. In JX 1360, Mr. Bogdanov --

A. Wait. I'm not on that.

Q. JX 1360 you also have the "Without Prejudice" legend on that piece of correspondence as well?

A. That's correct.

ATTORNEY BERDON: Let's turn to Exhibit 1307.

Q. Mr. Bogdanov, I'd like to direct your attention to the page at the bottom that says 0003.

A. Yes.

Q. You testified that -- in essence, that you objected to this proposal because it would usurp the authority of the limited partner to approve budgets; is that right?

A. I'm not sure I just would put it in this way. I said that we believe that proposal was acceptable, but the proposal should follow the LP -- the existing LP terms. That's what I said.

Q. Well, you understood that there were timing issues here that made certain decisions time sensitive; correct?

A. Probably, yes.

Q. And it was pretty clear in No. 1 that the general partner at (d) told you exactly how they intended to make decisions about the allocation of money among the clinical companies.

They requested discretion, though; correct?

A. They requested discretion, of course.

Q. But they made it clear how they intended to deploy the capital; correct?

A. No, because to make it clear how the general partner intends to deploy the capital, you

should provide your limited partner with a set of the basic investment documents, including the investment memorandum, which I requested and didn't receive.

Q. But the general partner here proposed language that would say, "The General Partner currently anticipates that if Marengo Therapeutics achieves Phase 2 data for invikafusp [] that [it] is deemed by its board of directors to be suitable for [] Breakthrough Designation, most or all of such additional $56.00 million will be allocated to Marengo ...."

They're willing to say that in writing in an agreement with you; right?

A. I'm sorry. Could you please --

Q. I withdraw the question.

Taking a look at Nos. 2 and 3 below, did you ask the general partner why it was important that they retain some discretion to allocate money among the different companies in Pools V-1 and V-2?

A. We didn't have a chance to ask. The proposal was withdrawn too fast.

Q. Well, isn't it true that they had proposed grouping the projects among the companies without necessarily following the exact corporate

form? Didn't they explain that to you?

A. He mentioned on the call, I think on the April or May call, I don't remember which one it was when we discussed that, that, yes, he would probably look at the early-stage companies as kind of like portfolio of assets rather than the companies, but he didn't give, like, detailed explanation of what it may have meant.

Q. But you understood also that there was a time sensitivity to getting these decisions made because these companies faced out-of-cash dates that were all within the next three to six months; correct?

A. I'm not sure he mentioned that they would have the cash-out dates shortly, but we understood that it was in our interest to consider those decisions pretty quickly.

Q. So, Mr. Bogdanov, currently you're the senior-most person at Rigmora with responsibility overseeing Rigmora's investments at ATP?

A. That's correct.

Q. And you came into that role in October of 2024?

A. Yes.

Q. And prior to October 2024, you didn't

have any involvement whatsoever in the approval of any budget for an ATP portfolio company; correct?

A. That's correct. Probably like ten years ago, I had some involvement, but not --

Q. Not in the prior ten years?

A. No.

Q. And before you became involved in that process, an executive named Anna Kolonchina was in charge of it?

A. That's correct.

Q. Your educational background is in business valuation; correct?

A. That's correct.

Q. And you haven't taken any courses in any bioscience in your educational career; correct?

A. That's correct.

Q. And before joining Rigmora, you worked as an auditor and a consultant; correct?

A. Right.

Q. And none of your work in your audit or consulting practice involved preclinical or clinical stage development of new drugs; correct?

A. As I said, I had two clients in the biotech industry in Russia, yes, but it was more than

20 years ago, so you are right.

Q. Mr. Bogdanov, isn't it true that starting as early as 2022, Rigmora faced a liquidity crisis?

A. That's how I framed that in my correspondence, yeah.

ATTORNEY BERDON: Can we pull up JX 444, please.

I'm sorry. Let's go to 446, please.

ATTORNEY BORN: If we're turning to documents that weren't in our binder, could we get a binder, and could the witness have a binder?

THE COURT: You should have a binder on the shelf.

ATTORNEY BERDON: I apologize.

THE WITNESS: I don't have a binder.

THE COURT: The binder is coming, everyone.

BY ATTORNEY BERDON:

Q. Let's go again to 463.

A. Could you please say again the number.

Q. We're going to JX 463, please.

THE COURT: Before the binder break, you had said 446.

ATTORNEY BERDON: I understand.

THE COURT: Now we're skipping it?

ATTORNEY BERDON: I'm skipping ahead, yes, Your Honor.

THE WITNESS: 4316?

Q. 0463.

A. 04 -- yes, I'm on it.

Q. Mr. Bogdanov, looking at the first page, do you recognize this as an email that you sent?

A. Yes.

Q. And you sent it to Dmitriy Chechkin?

A. That's correct.

Q. Dmitriy Chechkin is another senior official at Rigmora; correct?

A. That's right.

Q. Let's go to the next page, please. You said, "We are in a liquidity crisis, the primary task is obviously to provide [the] funding need for the next 2-3 years." Correct?

A. That's correct.

Q. And you said that -- taking a look at No. 2, you said that there had been a previous crisis at Rigmora with similar characteristics that was resolved by liquidating the private equity portfolio;

correct?

A. That's correct.

Q. And you said in No. 3 that, "The current cash gap can be closed by drastic reduction in venture investment (and particularly biotech) and divestiture." Correct?

A. That's correct.

Q. And was ATP Rigmora's biotech investment at that time?

A. Not only biotech investment, but yes.

Q. And you said that the structure -- in No. 4, "the structure of our assets with predominance of venture projects (biotech [and] gaming) carries [the] same risks that had led to the current crisis: poorly predictable money inflows (divestments) and massive outflows (capital calls)."

You said that?

A. I said that.

Q. And you observed that you would "remain []in the same logic of shifting money from less risky (Private Equity Funds, real estate, boat) to more risky assets with 'fire extinguishing' from time to time." Correct?

A. That's what I wrote.

Q. And No. 11, you said, "Hence, priority number one is to create [a] cash buffer (all free money should go there), then work on creating a 'cash cow'"; correct?

A. Right.

Q. The paragraph below that, it says, "How do we go about creating the cash buffer." You say, "The only way in this situation to start moving towards the cash buffer is to drastically reduce ATP payments." Have I read that correctly?

A. Right, through attracting the new investors into the fund.

Q. And taking a look at the "Summary" at the end, take a look at No. 4. "The first priority in this case is to put a 'plug' on expenses (no new projects, reducing investment expenses), the tasks of creating [a] cash buffer and finding new business can be solved in parallel."

That does not discuss bringing in new investors. That discusses putting a plug on expenses; am I right?

A. It referred to the plug on the new projects.

Q. Mr. Bogdanov, you mentioned that

Rigmora acts as an advisor to the trustees of the trust. Do you recall that testimony?

A. Right.

Q. And does the trust report to -- withdrawn.

Does Rigmora report to the trustees on a periodic basis?

A. Rigmora reports to the trustees of the trust, right.

Q. Let's pull up JX 0526, please.

A. Yes.

Q. Taking a look at what's been marked as Exhibit 526, what is that?

A. Let me read first.

Q. We are pressed for time, so I'm going to ask you a question and you can tell me if I'm right.

Is this an email that you sent containing trustee materials from March of 2023, Mr. Bogdanov?

A. I think that yeah, I just forwarded that email to my own address, yes. It was originally sent by Anna Kolonchina, as I see on the page.

Q. And it was sent to Elias Neocleous?

A. Elias Neocleous; right.

Q. And who is he?

A. He's the managing partner of Elias Neocleous law firm, and he's also the trustee.

Q. Taking a look at the page bearing the number 0007, do you recognize that?

A. Yes, I do recognize.

Q. And that's a cash flow statement for the Rigmora trust; correct?

A. That's correct.

Q. And if you look at the right-hand side at the bottom, "Net Cashflow[s] for the period," you will see that your 2022 plan was for $170 million deficit; correct?

A. That's correct.

Q. Your '22 actuals at that point was for $126 million deficit?

A. There was a net decrease in cash position.

Q. And your 2023 forecast was for $184 million deficit; correct?

A. That's correct.

Q. And the projected cash at the end of 2023, according to this forecast, was going to be

$38 million?

A. That's correct.

Q. Rigmora funded its investments in ATP, at least in part, through the sale of other assets; isn't that true?

A. Partially, yes.

Q. Let's turn to page 9.

Isn't it true, Mr. Bogdanov, that Rigmora was debanked by several banks in the EU in 2023?

A. Was what? Sorry. I don't know the word.

Q. Taking a look at the highlighted bullet point, isn't it true that in 2023 you reported to the trustees that several banks decided to close relationships with the group, namely Credit Suisse, UBS, and Bank of Cyprus?

A. That's correct.

Q. And that was because their compliance teams forced those changes; correct?

A. Most likely, yes.

Q. And let's take a look at JX 0681, please.

Take a look at JX 0681, Mr. Bogdanov.

Let's take a look, then, down to page 7 titled, "Cashflow 2023-Comments." Under "Financing," isn't it true that bank -- you had a credit line -- had asked that its guarantee of Swiss [francs] 120 million required additional cash collateral of $48 million at that time?

A. Could you please refer to the page.

Q. I'm on page 7 of JX 681, "Cashflow 2023-Comments," under the heading "Financing."

A. It's marked as page 8 in my binder. Okay. Sorry.

THE COURT: It shouldn't be. If you look on the screen, it's right in front of you.

THE WITNESS: It's 8 here.

Q. Isn't it true that you reported to the trustee that a bank guarantee required additional cash collateral because of the sale of two positions in stock where ATP had done exits and taken two companies public?

A. The bank guarantee required additional cash collateral, that's correct.

Q. Let's turn back to page 6, please.

And this contains similar data as the last report, but it has an updated forecast for 2023

and actuals for the first nine months of 2023; correct?

A. Apparently I'm on the wrong tab. Could you please say again the tab number.

Q. We are at Exhibit 681, and we're on page 6.

A. Thank you.

Q. Let's take a look at the "Net Cashflow for the period" --

A. Yes.

Q. -- on the right-hand side.

The plan was to be negative 185 for 2022. The nine-month actuals had already hit negative 147, and the updated forecast was for negative 202 million in negative cash flow; is that right?

A. That's correct.

Q. And instead of forecasting $38 million to be cash on hand at the end of 2023, the new forecast was down to $11 million; correct?

A. That's correct.

Q. And out of that money, it required distributions to beneficiaries of at least $10 million; correct?

A. That's correct.

Q. And it also provided for the sale of assets in order to fund Rigmora's overall expenditures; correct?

A. That's correct.

Q. Turning to page -- Exhibit 698. Isn't it true, Mr. Bogdanov, that --

A. Wait. What exhibit?

Q. 698.

Isn't it true, Mr. Bogdanov, that in March -- forgive me.

Isn't it true, Mr. Bogdanov, that in March of 2025 you had a text with Zufar Iskhakov that's set forth in Exhibit 698?

THE COURT: Do you have that exhibit?

A. It's 698. I have it in front of me.

Q. Withdrawn.

Mr. Bogdanov, in November of 2023 Rigmora entered into an agreement with ATP to reduce the amount that ATP would be able to call in capital for the year 2024; isn't that true?

A. Yes.

Q. And taking a looking at paragraph 3, it says, "As of the date set forth above, the aggregate amount of unfunded budget commitments for

the Portfolio Companies in ATP V-1 equals []63.33 million and in Pool ATP V-2 [it] equals $292[] million." It says that?

A. That's what the agreement says.

Q. Let's turn to the last page. Was it signed on behalf of Ezbon?

A. That's correct.

Q. Was it signed on behalf of Blue Horizon?

A. That's correct.

Q. Turning just quickly to Replicate. Isn't it true that you learned in late 2024 that the original budget for Replicate had been approved based on oral conversations?

A. That was my guess. I'm not sure I received a confirmation of my guess.

Q. And when you sent that list of 19 questions to Replicate, you didn't know one way or the other whether it was even possible for those questions to be answered in a reasonable amount of time; isn't that true?

A. I didn't know. I expected that all these questions can be easily answered by the company, but if they don't have the answers, well, that would

be, like, a surprise.

Q. Did you ask any biotech consulting firm for help in diligencing these new budget requests?

A. No.

Q. Does anyone at Rigmora have a background in biotech investing specifically outside of ATP?

A. We do have investment background, yes.

Q. Does anyone at Rigmora currently have a background in biotechnology science?

A. No.

Q. Has anyone at Rigmora worked specifically as an analyst in the biotechnology sector?

A. No.

Q. Turning to the subject matter of investment memoranda. I'd like to take a look at Exhibit 0267, please. 267, Mr. Bogdanov.

Do you recognize this document as a budget approval form for Red Queen?

A. Right.

Q. And it says Red Queen proposed budget, 55 million?

A. That's what this document says, right.

Q. "Intended Use of Proceeds: General working capital requirements." Correct?

A. Right.

Q. There's no discussion there of it only being made available in tranches?

A. I probably already said that we received bundle of documents. It was almost always the investment memoranda in this cover form, right.

Q. It did not include in the budget approval a list of any tranches; right?

A. Right. They're included in the investment memoranda.

Q. It wasn't included in the budget, was it?

A. No.

Q. Let's take a look at -- just for completeness, it doesn't say, "and for purposes included in the investment memoranda," does it? It didn't include that on the face of the form, did it?

A. You are right.

ATTORNEY BERDON: And let's take a look briefly at Exhibit 267. 267, please.

316, please. Apologize.

And let's go to page 3, please.

Q. So when Rigmora wanted to put more information in a budget approval, it could; correct?

A. I think this is like the additional follow-on 10 million on top of the original investment memoranda for Replicate, which was 40 or 44 million. I don't remember the exact number.

Q. Well, it says here Replicate current budget, 40, right?

A. 40, right.

Q. And it says proposed budget 53; correct?

A. Yes.

Q. This is for a $13 million increase?

A. That's correct.

Q. And it says, "Intended Use of Proceeds: Research and Development, IND and PoC."

A. That's correct. It's an additional program to be added to the investment memorandum of Replicate.

Q. Well, does it say anything about adding to the investment memorandum here?

A. No. It's just what I'm explaining.

Q. But it provides for a specific

intended use of proceeds; right?

A. Right.

Q. And PoC stands for proof of concept; correct?

A. That's correct.

Q. Are you familiar generally with the process that was used at Rigmora for reviewing capital calls before October of 2024?

A. In general, yes.

Q. Are you aware of anyone at Rigmora prior to May of 2025 checking to see the status of the program against investment memos before funding capital in response to a capital call on an approved budget?

A. We believed that that was the work which was done by the general partner.

Q. So the answer is the limited partner, Rigmora, did not do that check itself; correct?

A. Yes. We relied on the general partner.

Q. And it was not Rigmora's policy before 2025 to ask for copies of the Series A funding agreements that were executed by ATP with the portfolio companies; correct?

A. It's hard to comment for me what was my predecessors did.

Q. You worked there for ten years; correct?

A. Yes, but I was not involved in ATP matters up to October 2024.

Q. You mentioned earlier that when you received requests for new budgets and you were talking about new budgets for the early-stage companies, you went back and checked against milestones and that those companies had missed milestones.

Do you recall that testimony?

A. Yes. That was like our conclusion.

Q. Had all the companies missed milestones?

A. At the moment we didn't know for sure, but we realized that many of them missed milestones. In some instances, we missed information to assess their performance.

Q. Let's pull up JX 1285, please.

Do you recognize this as an email from your colleague, Mr. Iskhakov to yourself, Andrey Milkov, and Alexey Yakovlev?

A. Yakovlev, right.

Q. And let's take a look at the chart that appears in color.

ATTORNEY BERDON: Can we blow that up, please, Marco.

Q. Isn't it true that your colleague, Mr. Iskhakov, reported to you that Red Queen and Marlinspike had actually achieved and were in line with their investment memo milestones at that point?

A. That was his guess at the moment, right.

Q. So it was his guess?

A. Yes.

Q. So he was -- it wasn't binary whether or not looking at the investment memoranda and the quarterly reports would clearly demonstrate whether milestones had been hit?

A. Zufar is a junior analyst, and we just started that work, and it was work in progress. We, I think, made a number of iterations of that exercise later that month.

Q. Are you aware of any document that actually states that Red Queen or Marlinspike had missed milestones?

A. I'm not sure to what document you're

referring.

Q. Exactly. Are you aware of any time that you contradicted Mr. Iskhakov's conclusion with respect to Red Queen or Marlinspike and their meeting milestones?

A. Could you please rephrase. I'm not sure I really follow.

Q. Did you ever find a mistake in this chart and find out that, in fact, Red Queen and Marlinspike were behind on their milestones?

A. Sitting here, I don't remember, but I remember --

Q. That didn't happen, did it?

A. Say again.

Q. That didn't happen, did it?

A. I'm not sure. I think that we came to the conclusion that almost all of them missed milestones by the time we sent the email.

Q. You have seven companies; right?

A. Seven companies, right.

Q. At least two right here you're being told that they weren't behind on milestones; right?

A. Yes. It's like not the final document.

ATTORNEY BERDON: Let's go to 1242, please.

Q. As of April, you had Mr. Iskhakov check the amounts of remaining approved budgets for ATP; is that right?

A. That's correct.

Q. This was just a little over a month before your May 15 email; right?

A. That's correct.

Q. And you had received some new capital calls from ATP; correct?

A. That's correct.

Q. And Mr. Iskhakov says that "The new capital calls are reflected in our records. All are within [] budget." Correct?

A. That's correct.

Q. You didn't ask Mr. Iskhakov to check the progress against milestones of Nine Square or any of the other companies with capital calls to make sure that they were within the investment memoranda criteria before funding that capital call, did you?

A. Yes, I think we started that work analyzing of their performance later that month.

Q. You did it later in the month. You

didn't have it done for this capital call; right?

A. I think, yes.

Q. Let's just take a look at the chart there. Do you have any reason to believe that the figures here that were compiled by Mr. Iskhakov were incorrect at the time that you received the email on April 4?

A. I think they were correct.

Q. You had no reason to believe that Mr. Iskhakov was being sloppy or inaccurate; right?

A. No. He's pretty accurate.

Q. One of the issues that you raised in your May 15 email was that there was a lack of third-party interest in the portfolio companies; correct?

A. Yes.

Q. And one of the issues that we discussed with Dr. Harrison was third-party funding available from business development deals.

A. I referred to the equity investors.

Q. I understand. And I realize you weren't in the courtroom for Dr. Harrison's testimony.

Dr. Harrison talked to us about business development deals that provide nondilutive

funding for research and development projects.

Are you aware of those types of relationships?

A. Yes, I'm aware.

Q. And were you aware at the time that you wrote the May 15 email that there were ongoing discussions with BD partners among the portfolio companies?

A. Yes, I'm aware.

Q. And are you aware that in June, just three weeks after you sent your May 15 email saying essentially that Deep Apple was worthless, Deep Apple signed a deal with Novo Nordisk that would provide up to $812 million in funding?

A. Well, first, I never said that those companies are worthless. Second, we were aware that Deep Apple is considering the new project. That's why the general partner didn't include in his plans, on capital call plans, any capital to be called for Deep Apple in Q2. Yes, we were aware.

Q. You instructed that Deep Apple be shut down in your May 15 email?

A. That's not correct.

Q. Let's pull up the May 15 email,

please.

A. What exhibit number?

THE COURT: JX 1318.

THE WITNESS: Thank you.

Q. Let's take a look at the sentence that starts, "The SLP's position is therefore that further funding of those Early-Stage Companies will waste the ATP Fund's assets."

A. Yes, I see it.

Q. And Deep Apple was on the list of companies that you were instructing ATP to liquidate if it wanted to have further conversations about funding for clinical-stage companies; correct?

A. We invited the general partner to come with the ideas how we can salvage value from those companies, and this business development is a good illustration of that idea.

Q. You instructed the general partner to liquidate Deep Apple if it wanted to have further conversations with you about budgets for Aulos, Ascidian, and Marengo; isn't that true?

A. We instructed the general partner and we asked him to come with ideas how we can salvage value from those early-stage companies.

ATTORNEY BERDON: Let's turn to 195, please.

Q. This is an email from Anna Kolonchina to Seth Harrison in a chain that is -- let's go to the next email down, please.

It forwards a draft of Amendment 20.

A. Yes.

Q. Have you ever seen what's been marked as Exhibit 195 before?

A. I'm not sure. Like, most likely I reviewed certain documents from the past when I was not involved in the ATP matters, but I'm not sure.

Q. Let's take a look at numbered paragraph 5 on page 4, "Remaining Unfunded Capital Commitments." It says in paragraph (a) that there's an unfunded capital commitment for Pool ATP IV of 20 million; correct?

A. Yes.

Q. "Pool ATP V-1 will be deemed to have remaining unfunded capital commitments of [$220] million ...."

A. Right.

Q. Pool ATP V-2 was going to be deemed to have an unfunded capital commitment of 664 million.

ATTORNEY BORN: Objection. This predates his time, and I think he says he's not sure if he's ever seen it before.

ATTORNEY BERDON: He is the chief executive officer of the company, and I believe it is fair game to ask him because he also testified that he probably also saw it during the course of his work.

THE COURT: If you don't have an understanding of this document, then you can so testify, but you are the CEO of the company.

A. Frankly speaking, this is a draft and I don't recall reviewing the drafts. I do remember that I reviewed the final amendment which was signed, but this is the work in progress. I can hardly help you.

Q. Let's take a look at the top email on the first page. Anna Kolonchina writes back to Dr. Harrison and she said, "Please find attached marked up version with [a] couple of revisions. No substantive changes here ...."

Do you see that?

A. Yes, I see.

Q. Mr. Bogdanov, Rigmora received a number of capital calls on May 30; correct?

A. That's correct.

Q. Was each of those capital calls within the amount of the approved budget for the portfolio company on which it was called?

A. I think so.

Q. Has Rigmora paid them?

A. No.

Q. Does Rigmora have any intention to pay them absent an order of this Court?

A. Again, we disputed those calls, right.

ATTORNEY BERDON: Pass the witness, Your Honor.

THE COURT: Just a moment. I have a few questions and then you can decide what to do with him.

Remind me, you took over the responsibilities that you currently have at Rigmora in October 2024; is that correct?

THE WITNESS: That's correct.

THE COURT: What were you told when you took over those responsibilities?

THE WITNESS: I didn't have any specific instructions. Obviously I was involved in many matters. So that was kind of like a small

transaction. But my predecessor left exactly on that date when I became the new CEO, it was October 17, and there were no specific instructions.

THE COURT: There were no instructions from anyone as to how to proceed?

THE WITNESS: There were no specific instructions.

THE COURT: Go ahead.

ATTORNEY BORN: No further questions. Thank you, Your Honor.

THE COURT: Thank you.

(Witness excused.)

ATTORNEY BARLOW: Plaintiff rests subject to rebuttal.

THE COURT: Thank you.

ATTORNEY SELDEN: Good morning, Your Honor. Shannon Selden of Debevoise & Plimpton for defendants. Defendants will call Dr. Dmitry Rybolovlev.

(Steven Lagutin, Russian Interpreter, was previously placed under oath.)

COURT CLERK: Please remain standing and raise your right hand. State and spell your first and last name for the record.

THE INTERPRETER: Rybolovlev Dmitry Yevgenevch.

COURT CLERK: Can you spell it, please.

THE INTERPRETER: R-y-b-o-l-o-v-l-e-v, Dmitry, D-m-i-t-r-y, and there's a patron (indecipherable), Yevgenevch, Y-e-v-g-e-n-e-v-c-h [sic]. I might be off on that.

THE COURT: Going forward, the questions will be directed to the witness and then you translate. I want to make sure that we're hearing the words from the witness.

DMITRY YEVGENYEVICH RYBOLOVLEV, having first been duly affirmed, was examined and testified as follows:

DIRECT EXAMINATION

BY ATTORNEY SELDEN:

Q. Good morning, Dr. Rybolovlev. Could you please state your name for the record.

A. Dmitry Rybolovlev.

Q. Dr. Rybolovlev, where were you born?

A. The Soviet Union, the city of Perm, P-e-r-m.

Q. Where did you grow up, Dr. Rybolovlev?

A. Same place.
Q. Did you go to university?
A. Yes. I graduated from Perm Medical Institute.
Q. When did you graduate?
A. In 1990.
Q. Did you ever work in medicine?
A. Yes. I was working as a medic, as a male nurse, taking night shifts. All in all, about five years.
Q. Did you practice in medicine after graduating?
A. Yes. I practiced one year as an intern doctor.
Q. And why did you stop working as a doctor?
A. At that time the work of a doctor in the USSR was paid, to say the least, modestly. I was making at that time about 120 rubles a month, plus ten rubles for being an excellent student. At the same time I had no apartment -- I had family, I had no apartment, I had no means to support myself. Therefore I had to change my nature of activity.
Q. And what did you do next?

A. Me and my father opened a small enterprise providing medical services to industrial enterprises, to factories. At that point in whatever was called the Soviet Union, there was a process named "perestroyka," or restructuring, that would allow private enterprise activity, which is what we took advantage of.

Q. Did there come a time when you changed jobs again?

A. Yes. The thing is, back when I was a child, I happened to read a book that was pretty popular in the Soviet Union at the time. It was a book by Theodore Dreiser, *The Financier*.

Then I took an interest in it, and then at that time the market -- the stock markets in Russia started developing, and that pushed me towards going to study and taking one of the first -- be one of the first ones to take the certificate on the operations with shares, valuable papers.

Respectively, I was the first one to open an investment company in my region. At that moment in Russia they started the process of privatizing of the state-owned companies. So therefore I happened to be one of the ones who were

most prepared in my region for that kind of market.

The process of privatizing happened to have an auction that the government was selling the enterprise through various mechanisms to various private actors. The entire population was given some voucher that they could sell or they could exchange for shares of certain enterprises. Therefore I created a special investment fund and became an active participant in this kind of activity, privatizing.

At some point we accumulated about 20 enterprises under our ownership. Eventually they went down -- the number went down to seven. And furthermore, as a result of further sales and various acquisitions, I focused on two major enterprises. As a result, I happened to obtain a control package of one of them. That was a company Uralkali.

Q. Dr. Rybolovlev, could you spell Uralkali for the court reporter.

A. U-r-a-l-k-a-l-i.

Q. Dr. Rybolovlev, at some point did you obtain a controlling block Uralkali?

A. Yes.

Q. And what did you do then?

A. The thing is, it was a pretty big

enterprise of the Soviet style that had about 15,000 people working on it. Correspondingly, there has been a big -- large work done to restructure the enterprise and conducting various reforms to make it more in line with the western-style corporate leadership.

As a result, in 2007 we introduced the company to the London Stock Exchange. It was a successful step and at that time we managed to earn our first billion. Eventually in 2010 the company was sold.

Q. And how much did you receive for your stake in Uralkali when it was sold?

A. Around 5 billion.

ATTORNEY SELDEN: Your Honor, would now be a good time for a break?

THE COURT: We can break now. I will need about 20 minutes for the morning break because I have a ton of administrative things to do every break. Why don't we break now and resume in 20 minutes.

(Court in recess at 10:30 a.m.)

(Resuming at 10:50 a.m.)

THE COURT: Please be seated. Thank you.

Just a reminder, we'll break next at noon.

ATTORNEY SELDEN: Thank you, Your Honor. Shall I proceed?

BY ATTORNEY SELDEN:

Q. Dr. Rybolovlev, did three come a time when you left Russia?

A. In 1995 I moved my family to Switzerland and became a tax-paying resident of Switzerland myself. Although there was a lot of time I was still spending in Russia because we needed this time to take care of the enterprise. And when in 2010 the company was sold, I finally left Russia for good.

Q. The company that you're referring to is Uralkali?

A. Uralkali.

Q. What did you do professionally after you sold your interest in Uralkali?

A. Yes. I happened to have a medical education and I really love medicine and I really regret that I ended it so abruptly. I started taking

interest in being in Switzerland in biotech.

After sale of the Uralkali, I conducted several meetings with various fund managers in the U.S. in order to find an optimal way to invest in biotech industry. My idea was essentially to replicate the approach that I had in Russia. The idea was to have like a rolling investment in multiple companies with subsequent focusing of one or two of them in order to eventually create a family business.

The other possible way to do it would be to heavily invest in one company, but considering biotech being a pretty risky industry, that was a pretty risky venture in itself.

As a result of these meetings, I met Seth Harrison, which essentially liked the strategy. He happened to have small foundation; and as a result of our cooperation, we created this fund.

Q. And what's the name of that fund that you created with Dr. Harrison?

A. It was the Apple Tree fund, which essentially had the same name as the fund that Mr.-- Dr. Harris [sic] had. However, this time we took the commitment to invest about 1.5 billion.

Q. Dr. Rybolovlev, do you have other

investments besides the fund?

A. Yes. I generally like investing in technology. In the future, I believe there will be three major ways -- well, three major directions that humanity will benefit the most from, which is number one, health, the food, and entertainment.

Yeah. So this is as far as we go considering this foundation regarding the health or the health protection. We also made some investments in creation of cellular-based meat. I believe this will dramatically change the approach that humanity treats the nutrition stuff, because this is going to be an artificial meat, essentially, and this is going to be having absolutely no impact on the environment. And right now, as you know, the cattle farming is one of the biggest factors that impacts the environment. So we have this company in Oxford, and it develops pretty well.

The next direction is gaming, and there we have several investments. Also, we do have some realty investments as well as other portfolio investments.

Q. And, Dr. Rybolovlev, do you also own a football team, or a soccer team as we would say here?

A. Yeah. This is a part of the same approach we took regarding the entertainment industry. Yeah. We happen to have ownership of 66 percent of the soccer club Monaco. And like I said, this is another investment in the entertainment industry, in gaming.

Q. Dr. Rybolovlev, in addition to your investments, do you also like to keep significant cash on hand?

A. We do not like to keep a lot of liquidity on hand. I believe the money, whether it's cash, it has to work. So when it comes to dealing with liquidity, such as cash, we manage it pretty scrupulously. And I believe our liquidity's fine as far as our assets goes.

Q. Does that approach make it difficult to satisfy obligations to pay in cash when they arise?

A. In all my being in the business, we had no difficulties with that.

Q. And, Dr. Rybolovlev, do you understand Dr. Harrison alleges or APT alleges that the war in Ukraine changed your approach to investments beginning in February of 2022?

A. I don't agree.

Q. What impact, if any, did the Ukraine war have on your approach to investing?

A. No impact.

Q. Have you been the subject of any U.S. or EU sanctions since the start of the Ukraine war?

A. No.

Q. Do you invest in the U.S.?

A. The main investments just happen to be here in the U.S.

Q. Dr. Rybolovlev, let's talk about your investment in the fund that's at issue here, APT. How did you structure your investment in the fund?

A. So we happened to be in the position of LP, Dr. Harrison was GP, general partner.

Q. And the LPs that invest are the Rigmora Biotech Investor One and Two?

A. Yes.

Q. Have other LPs invested in the fund, to your knowledge?

A. It has been always our position that Dr. Harris would have the similar motivation in the interests of the company as us. This is why we decided to give him a small share as LP in terms of free credit line that we provided for him to get a

share.

Q. Dr. Rybolovlev, are you familiar with the term "capital commitments"?

A. Yes.

Q. What do you understand it to mean?

A. That's the number of commitments that companies of the trust took upon themselves to the fund.

Q. Did the Rigmora LPs make a capital commitment to the fund?

A. Yes.

Q. How much did the LPs initially commit to invest in the fund, if you know?

A. About 1.5 billion.

Q. Does that include the loan you mentioned to Dr. Harrison?

A. Yes.

Q. Do you recall how much that loan was?

A. About 75 million.

Q. Dr. Rybolovlev, when the LPs committed to invest $1.5 billion in the fund, was that paid in all at once, upfront?

A. No. Within the scope of the life of the founding fund.

Q. Did there come a time when the fund began making investments?

A. Somewhere in the area of 2013.

Q. When the fund started making investments, did you play any role?

A. Yes. Normally the way it happened is Dr. Harris would come one day with a proposal, briefly describe it, and name general number required for it.

Yeah. So normally, if we like the idea as a whole, we would approve it. And, further, there was a process of formalizing it and approving it at Rigmora.

Q. What was that process, if you know?

A. Yeah. Dr. Harris would provide a package that was required to Rigmora with numerous investment documents, such as milestones, et cetera, numerous documents, and, furthermore -- eventually Rigmora would study it and make decision.

Q. Was that formal process important to you?

A. Yes, of course.

Q. Are you familiar with the term "milestones"?

INTERPRETER: I'm sorry, Ma'am?

Q. You're familiar with the term "milestones"; right?

A. Yes.

Q. What do you understand that to mean?

A. That is a very important mechanism of control of the company's development. This is so-called timeline which is agreed upon both with founders and the management about the way the company's supposed to develop.

So if milestones, for whatever reason, are not achieved so there is some issue, that basically shows that the founders and managers didn't cope with the problem. Therefore, this requires further in-depth analysis in order to understand what exactly needs to be done, whether the milestone needs to be changed or the company has to be terminated.

Q. Were milestones something you considered when reviewing the investment proposals?

A. So definitely Rigmora was adhering to this mechanism. However, my level set was always telling me that the number -- the numbers that we utilized did not always go along with the outlined budget. For example, we can spend 1 or 3 billion -- million eventually to understand that a company does

not fulfill the obligations.

The adherence to the control points, which is what it is, is one of the major obligations of general partner.

Q. Do you consider biotech to be a high-risk investment?

A. Yeah, it's a high-risk investment.

Q. Why is that?

A. There's a very little number of companies that eventually reach success.

Q. Is it fair to say that milestones are important to your investments in the fund?

A. Yes, clearly. When you are not situated inside the company, it's very important for you to understand the mechanism that works as an investor.

Q. Dr. Rybolovlev, did there come a time when the LPs increased their capital commitment to the fund, to your knowledge?

A. Yes. About -- in about the middle of 2020, we decided to increase the commitment by 1 billion.

Q. Why?

A. So Dr. Harris came up with a proposal

to continue investment, and we liked this considering the fact that biotech investments we consider strategic investments. Based on this, we gave our approval.

Q. In 2020, after the LPs agreed to increase their commitment, what was their total capital commitment to the fund, if you know?

A. About 2.5 billion.

Q. Did there come a time when the LPs made another capital commitment to the fund?

A. No.

Q. Were you involved in an amendment to the fund's LPA regarding a company called Braeburn?

A. Essentially, no. That involves a lot of technical works, which I do not get involved much into.

Q. That was Amendment 20. Do you recall being involved in Amendment 20?

A. Yes. So we often discussed this with Dr. Harris, but Dr. Harris eventually proceeded to -- was the one who directly involved in the execution of this.

As far as Braeburn, he had pretty negative view of this, and, therefore, we decided to

separate it in a separate pool. And if time comes, we could reallocate this, but then Dr. Harris would lose his carry.

Q. Did you agree to commit more capital to the fund in connection with that amendment?

A. No.

ATTORNEY EPSTEIN: Objection.

THE COURT: What is the objection? You have to stand up and say it out loud.

ATTORNEY EPSTEIN: Foundation. He said that he wasn't involved in the direct.

THE COURT: So this is not a deposition. If you want to make an objection, stand up and make it. If you want me to resolve, I'll resolve it.

What is your response to the objection on foundation?

ATTORNEY SELDEN: My response to the objection is he has described his general understanding of what Amendment 20 does. At a high level, I'm asking for his general understanding of whether he agreed to commit more capital in response to Amendment 20. I think that's a fair question under the circumstances.

THE COURT: Overruled. Thank you. You can answer the question.

A. Can you repeat the question, please.

Q. I can. And maybe I can improve it and avoid the objection.

Dr. Rybolovlev, do you have an understanding of whether the LPs agreed to commit more capital to the fund in connection with Amendment 20?

A. No.

Q. Did you, yourself intend to agree to commit more capital to the fund in connection with Amendment 20?

A. No.

Q. Is it possible the LPs committed more capital to the fund without your knowledge?

A. No.

Q. Do you know how much the LPs have actually invested in the fund to date?

A. About 2.7 billion.

Q. Why, if you know, did the LPs invest more capital in the fund than the 2.5 billion you stated they committed?

A. Well, we consider it our investment and our assets, and we are interested -- taking

interest in developing those companies. Therefore we decided to increase our assets.

Q. Was the total amount of the LPs' capital commitment important to you?

A. Of course.

Q. Why is that?

A. It's very important for everyone to understand his own obligations.

Q. Did you ever discuss the total amount of the LPs' commitments to the fund with Dr. Harrison?

A. Yes.

Q. When was that?

THE INTERPRETER: 2023?

A. 2023.

Yes, it was 2023, and we clearly communicated to Dr. Harrison that we would prefer to stay in the range of 2.5 billion, which is basically the number of the general subscription to the fund.

Q. Was that in May of 2023?

A. About that.

Q. What were those conversations like?

A. He was pretty negative about it.

Q. Was that the only time that you discussed the limit on the LPs' capital commitment to

the fund?

A. No. Also we did it in fall of 2023.

Q. What were those discussions like?

A. Well, it was kind of pretty obvious that there might be some issues with the early-stage companies.

The fact of the matter is that when the decision about investment in these companies was being made, the market happened to be in a very high position. That happened as a result of COVID. There was a big, positive reaction in terms of development of medical sciences. Also, there was a large number of unqualified investors entering the market at that time, therefore. Therefore, even in preclinical studies companies had opportunity to syndicate a number of investors.

So, with that in mind, you also have to keep in mind the fact that the reserve -- the Federal Reserve rate is extremely important factor of this. And if the rate is low, the attraction is higher. So I could say there were two major factors in this. The first was COVID and the second was low interest rate that attracted so many investors at that time in preclinical studies.

As you know, eventually the rates went up and investors started giving up on risky assets. Well, correspondingly, the index that show the level of development, the level of technology companies went down, and eventually it became obvious that for the early-stage companies, for that early-stage companies, attracting more investments was becoming more and more difficult. This is one side. And the other side, the subscription, by the end of 2023 has to come to the end, has to finish.

So we made a deal with Dr. Harrison that he would make an attempt to sell the companies with early-stage. We were prepared for big discounts. And it happened that he didn't find anyone in a year and a half. So that means the market didn't accept it.

Q. Why were you willing or ready to sell at a big discount at that point in time, in the fall of 2023, some of the companies in the fund's portfolio?

A. Yes. The early stage.

Q. My question was why.

A. It was becoming obvious that at that stage of the market it would become more and more

difficult for them to attract outside investments and, correspondingly, making investment themselves. And this is one side. And the other side is our subscription was coming to the end.

Q. When you say "subscription," are you referring to the $2.5 billion capital commitment of the LPs to the fund?

A. Yes.

Q. Do you know how much of that $2.5 billion commitment had been drawn down by the fund at that point in the fall of 2023?

A. "Draw down," what did you mean by that?

Q. Do you know how much of that $2.5 billion in capital commitment had been called and invested by the fund at that point?

A. At what date?

Q. The fall of 2023.

A. I don't exactly remember. We were very much getting close to the end of it, but at the end of 2023, the commitment was up.

Q. Did you discuss with Dr. Harrison how close the fund was to exhausting the LPs' commitments?

A. Right. This is actually one of the

reasons we needed to sell the companies.

Q. How did your discussions with Dr. Harrison go?

A. Pretty tensely. Pretty tense.

Q. I'm sorry. I'm just having a hard time hearing. Pretty tense?

A. With tension.

Q. With tension.

Dr. Rybolovlev, was it around that time that you requested a distribution of a company called Braeburn?

A. Yes.

Q. What's Braeburn?

A. This is a company that develops a product that uses -- that is used in opioid dependency, addiction.

Yes. So at the point of conception the beauty of this company was the fact that it was utilizing the pretty well-known -- pretty well-known technique of fighting addiction. However, the general way of doing it happened to be through pills. We did it through injections. That would change a lot and allow us to eventually develop the company and hopefully attract more capital and make -- of the

company that it was considered a low risk at that time. With that capital we could invest into high-risk capital companies eventually.

However, we faced very unexpectedly another risk here. There was a regulatory risk where then several years, under very different pretext, the FDA did not approve the product as per results of the trials.

There was a point when Dr. Harrison was saying that it would be more frugal to just write this investment off.

It's not only based on our will that the company not only managed to survive, but eventually got approval from FDA. Correspondingly, in 2023 we decided to reallocate it.

Q. What happened when you requested distribution of Braeburn?

A. He refused.

Q. Then what happened?

A. So, considering by then we had a number of negotiations, we decided to keep it at least at the level of some more constructive part. As a result, we just decided to keep the legal rights for reallocation but decided not to proceed with that.

Q. Did there come a time when you were involved in litigation over Braeburn?

A. Yes. About the middle of 2024 we decide -- we requested again to reallocate. He refused again. So, correspondingly, we went to court.

Q. Is Dr. Rybolovlev saying "reallocate" or "distribution" of Braeburn? I believe there's an error in the translation.

A. Redistribution.

Q. So, Dr. Rybolovlev --

THE COURT: There is an objection. Why don't you state your objection, Counsel.

ATTORNEY EPSTEIN: My objection is I don't believe that Ms. Selden speaks Russian. So I am not understanding the objection in the transcription.

THE COURT: I think she knows what her client intended to testify because she's been working with him up until today. So it's a fair question to ask if the translation was accurate, given that it's probably inconsistent with what she knew him to say. So I'll allow it to proceed. Thank you.

ATTORNEY SELDEN: I have wished many times in the past three months that I did not drop Russian after my first semester of college.

BY ATTORNEY SELDEN:

Q. So, Dr. Rybolovlev, you were involved in litigation over Braeburn in 2024. Did that incident with Braeburn affect your confidence in Dr. Harrison?

A. Of course.

Q. In 2024, during this time, is that when Anna Kolonchina left Rigmora, do you know?

THE INTERPRETER: Anna Kolonchina --

ATTORNEY SELDEN: Left Rigmora.

A. Yes.

Q. Do you know why she left?

A. Yeah, she came and said that she burned out, she's tired and she needed a break.

Q. Did you want her to leave?

A. No.

ATTORNEY SELDEN: May I just ask the translator to speak into the microphone or speak up a little bit. You're very hard to hear from here.

Q. Dr. Rybolovlev, have you had any discussions with Dr. Harrison about further investment in the fund since December of 2024?

A. Yes.

Q. When was that?

A. Yes. It was at the end of 2024, beginning of '25 when we discussed the increase of the budget regarding several companies.

Q. Has Dr. Harrison submitted any new budget requests since December 2024, do you know?

A. Yes.

Q. What was Rigmora's response to the new budget request, if you know?

A. Yeah. Well, we -- of course we discussed it. Correspondingly, we requested that leaders of several companies would visit us in Monaco. For example, there was a discussion regarding the company Replicate budget increase.

Well, correspondingly, we approved the budget and paid a fraction of it, which is about 4 or 5 millions.

Q. And you understood that Mr. Bogdanov had some questions about Replicate; is that what you said?

A. Yes. At that point Dr. Bogdanov got our attention to the fact that unexpectedly the legal expenses of the foundation grew dramatically, abruptly. Correspondingly, he said that he has his suspicions that part of this money might be used in

the litigation on the Cayman Islands, Cayman process.

So, respectively, he requested more information. And Dr. Harrison provided a very emotional response to that. That was in Monaco when we were meeting there in January.

Correspondingly, as a result of this conversation, this budget was decreased by 250,000. But we never received that information. All of that was in parallel time-wise and with discussion of the Replicate budget. So correspondingly, we had a question whether everything that we see is accurate and right. Correspondingly, Mr. Bogdanov requested more additional information about Replicate, for example, the transcripts of the CEO conferences. The transcripts of the council of directors.

ATTORNEY SELDEN: Do you mean board minutes?

THE INTERPRETER: Board of directors.

A. And prospectively, Dr. Harrison also reacted very negatively to that. So I asked him, why is that? All the more reason is whatever Mr. Bogdanov is requesting is part of our agreement. He said yes. And then I go, what is the problem, then? So for me, it really looked very weird. If you, for example,

invest 50, $100 million in the company and somebody refuses to produce you the transcripts from the board of directors meeting, that is strange.

So as you understand, after these discussions, we had a pretty good understanding that we need a more detailed investigation with this matter.

Q. Did Dr. Harrison's reaction to these information requests affect your approach to his budget proposals going forward?

A. Only from that particular point of view that we really need to provide a very more thorough analysis of things.

Q. From that point in time, did you believe you needed to ask for more information?

A. Yes.

Q. And why was that?

A. The fact of the matter is that this discussion about a simple request of producing like a pretty simple information being refused really affected the confidence.

Q. Did there come a time when you met with anyone from the portfolio company?

A. Yes, we were meeting with the CEO of

Replicate, Aulos, and Maria [sic].

Q. Marengo?

A. Marengo.

Q. What, if anything, did you learn from those meetings?

A. It depends on the company. If you look at the -- each company needs to be looked at individually. For example, in the case of Aulos, they got in the pretty complicated situation because due to the management error, the entire -- the clinical trials would have to be repeated. Although the results were seemingly fine, they, in reality, could not be used. However, we still expressed our readiness in further financing.

As far as company Marengo, everything as a whole was good.

Q. During that period of time, were you still considering budgets that Dr. Harrison brought you?

A. Yes.

Q. Why were you still considering budgets from Dr. Harrison, given what you've told us about your loss of confidence?

A. Well, this is our investment. This is

our money. And we are basically the first people interested in their good development.

Q. Was there a time when you discussed with Dr. Harrison reallocating budgets within the portfolio of companies?

A. Yes. About May, beginning of May, Dr. Harris suggested that we reallocate the assets, the funds from the early development companies to the well-developed companies. And as far as early development companies, some of them would stay while the other one may well liquidate.

Q. What did you understand the next steps to be with respect to that reallocation proposal?

A. So we approved this approach. As a matter of fact, we were pretty happy to see that finally Dr. Harris moved in this direction.

THE COURT: So need to take an hour now or an hour and a half. We'll resume at 1:30. Thank you.

(Lunch recess taken at 12:00 p.m.)

(Resumed at 1:42 p.m.)

THE COURT: Thank you. Please be seated.

Mr. Rohrbacher.

ATTORNEY ROHRBACHER: Blake Rohrbacher, Your Honor. Two brief housekeeping matters. After Dr. Rybolovlev is done, the defendants will be playing a series of clips of video designations with counterdesignations from the other side. Including those video clips, we calculate that the other side has about 47 minutes left or less. And so we hope it won't become an issue, but I just wanted to raise it in case it does.

THE COURT: All right. Look, I shouldn't do this, but if I need to watch the clips elsewhere, I can. I prefer to take in testimony all at once in court so you all are conscious of my own personal time. You've been exceptionally accommodating of me, so I'm willing to do that.

ATTORNEY ROHRBACHER: There are clips. We are hoping to play them here live as part of our case in chief. So that is -- and we've made cuts elsewhere to make sure that we have the time to do them.

THE COURT: Great. Let's hope that works.

Shall we continue?

ATTORNEY SELDEN: Thank you, Your Honor.

BY ATTORNEY SELDEN:

Q. Good afternoon, Dr. Rybolovlev.

Before lunch I had asked you about a reallocation proposal made by Dr. Harrison in May of this year.

Do you remember that?

A. Yes.

Q. You were happy with that proposal?

A. Yes.

Q. What did it propose to do?

A. It was proposed that the early-stage companies would be partly liquidated or consolidated. Correspondingly, we would need to investigate also what is the value of IP that can be actually stayed in, and most of what it is could be -- the money could be directed towards the companies with the clinical research.

Q. What does it mean to consolidate the early-stage companies, if you know?

A. I didn't understand the question.

Q. What did you understand the proposal to do with respect to consolidation of the early-stage companies?

A. So most of it I implied by decreasing of expenses for the companies of the early stage. That would essentially lead to breaching the various agreements, breaching the agreement of rent. That would essentially lead to firings or dismissal of personnel.

And among those -- the ways that were remaining in the companies, we would choose the most prospective one, the most promising one, and keep it; whereas, the money that would be -- that we would have after these changes would be directed to the bigger companies with the clinical-stage research.

Q. And why were you happy with that proposal to consolidate the early-stage companies?

A. That was the right decision, and that was something we'd been discussing for a long time before that.

Q. Did you reach an agreement on a reallocation plan with Dr. Harrison?

A. Yes. We had a video phone call during

which he was convincing us that was the right thing to do. Accordingly, I agreed, and from that point we discussed that him and Yuri Bogdanov would proceed to the technical part of it.

Q. And do you know what came of those discussions between Dr. Harrison and Mr. Bogdanov?

A. Essentially, it turns out that Dr. Harrison wanted complete control of all the sums of money, which essentially would deprive of us of any right of LP.

Whereas, the way it was perceived by Yuri Bogdanov was different. That was in line more like first you go through the liquidation of the early-stage companies, and then you proceed with budgeting of the clinical research companies.

Q. Were you ultimately able to reach agreement on a final reallocation plan with Dr. Harrison?

A. No. I believe eventually they could not come to an agreement, and there came a point where we ended up in court.

Q. Do you know why you were unable to reach agreement on the reallocation plan?

A. I gave it a lot of thought, and it

looks to me that for Dr. Harrison power and control is more important than effectiveness.

Q. Did you have confidence in Dr. Harrison at that point?

A. Clearly, the trust was undermined. However, until the very last moment, we kept trying to preserve constructive dialogue.

Q. Dr. Rybolovlev, switching gears for a moment. Was there ever a time before the complaint was filed when you decided that the LPs would not satisfy any more capital calls from the fund?

A. No.

Q. Had the LPs, to your knowledge, ever failed to pay a capital call before this litigation was initiated?

A. No.

Q. Was there ever a time when you thought that the LPs would be unable to pay a capital call when it came?

A. No.

Q. How do you think about investing in the portfolio companies now?

A. Again, I continue investing in the portfolio companies because we consider them our

companies and our investments; and, of course, we would like for them to keep developing further. But it's very important that among those companies were the companies that have clear chance to reach success.

Clearly, for us as investors, writing off some assets is a very painful process because we're talking about the money that had been invested but never get back. When we take something -- a decision like this, we take it through pain, but sometimes it has to be done so that the good money would not follow the bad ones.

Q. Dr. Rybolovlev, how do you think about investing with Dr. Harrison in the future?

A. I believe that trust in Dr. Harrison is irreparably undermined, and I don't see how he could possibly manage the money of our family trust.

ATTORNEY SELDEN: Thank you, Dr. Rybolovlev. I pass the witness.

CROSS-EXAMINATION

BY ATTORNEY EPSTEIN:

Q. Good afternoon, Dr. Rybolovlev. It's good to see you again.

A. Good afternoon.

Q. So am I correct that throughout this

entire examination that we went through this morning, your counsel did not show you a single, contemporaneous document from you backing up anything; correct?

A. There were no documents.

Q. And you don't really use email; correct?

A. No, I don't.

Q. And you primarily communicated with Mr. Bogdanov via Signal; correct?

A. Signal and WhatsApp.

Q. And you did not change your settings on Signal or WhatsApp to retain messages until about May 30 when this suit was filed; correct?

A. I didn't quite understand the question. What is retention of messages?

Q. Do you understand that Signal messages disappear after a certain amount of time?

THE INTERPRETER: Yeah. "Retention" was interpreted differently. I apologize. Backing up or saving messages basically?

ATTORNEY EPSTEIN: Is what I meant by retention, yes.

A. No, I haven't changed it.

Q. So you have not changed your settings to retain messages?

A. No.

Q. So I believe you said earlier that biotechnology investing can be risky; correct?

A. Yes.

Q. And you appreciated those risks when you decided to go into business with Dr. Harrison; right?

A. Not completely.

Q. Well, fair to say that 15 years later you now appreciate those risks even more?

A. Yes.

Q. And you would agree that biotech, and drug discovery in particular, is a capital-intensive business; right?

A. Yes and no, depending on circumstances.

Q. But in any event, one of the things that you like about biotech investing is when a drug does reach market, it does bring massive profit; right?

A. Yes, but besides that, also we use to help of people.

Q. I think you said those were one of the three things you were interested in investing in along with food and entertainment; right?

A. I believe that the more we know about the biology of the human body, it's not only going to help us, but change our civilization overall.

Q. So you understand that preclinical companies are riskier than clinical companies; right?

A. Yes.

Q. And in your view in the current market in 2025, you believe it's very, very difficult to track funding at the preclinical stage; right?

A. Somewhere in the year of 2022 I believe there is an index that could provide you a very good picture of what's actually happening. So that index will reflect that there was a peak somewhere between 2020, 2021, after which the fall started, and the fall went consistently through 2022, 2023 and '24. And it's been only one, maybe two months since we've been observing some positive changes, that is, the market started correcting itself, and we believe that this is going to help us, all of our technology companies, biotechnology companies.

ATTORNEY EPSTEIN: Could you put up 74, 9 through 11, Marco. The question too, please. It was another long answer.

Q. So you were asked, "And to the best of your recollection, did Rigmora approve, at least preliminarily, a merger of Nereid into Marlinspike?"

Do you see that?

THE INTERPRETER: Counsel, could you repeat that.

Q. "To the best of your recollection, did Rigmora approve, at least preliminarily, a merger of Nereid into Marlinspike?"

Do you see that?

I'm sorry. Maybe my question didn't get translated. My question was simply, does he see that statement.

A. That's what I was going to answer you. Overall the answer is yes, but there's some nuances.

Q. I'm going to stop you again.

THE COURT: Let's pause for a moment. You're trying to impeach the witness; is that correct? So, in trial, if you say something that's inconsistent with something you've said before, then the attorney who's asking you questions is going to show you what

you said before, and the attorney will say something like "did I ask that question and did you give that answer?" When they do that, they're not reasking the question on the page. They're just showing it to you. Your attorney will have the opportunity to say why what they showed you does or doesn't matter. Does that make sense?

THE WITNESS: Yes.

ATTORNEY SELDEN: Your Honor, might I just add one other point, which is that Dr. Rybolovlev doesn't read English.

THE COURT: I'm aware, which is why I understand it was confusing.

ATTORNEY SELDEN: Thank you so much.

THE WITNESS: There is two answers to that question. One of them is short and one of them is comprehensive. This is why when I answered I answered yes, but with nuances.

THE COURT: So you might want to impeach the witness using video clips if you have them or speaking the words into the record.

BY ATTORNEY EPSTEIN:

Q. So you recall that just now I had asked you whether or not in your view it was very,

very difficult to attract funding at the preclinical stage in 2025. You recall I just asked you that; yes?

A. What is the question exactly?

ATTORNEY EPSTEIN: Could I have it read back?

ATTORNEY SELDEN: May I suggest we take down the exhibit to lessen the confusion?

THE COURT: That's really up to the examining attorney.

ATTORNEY EPSTEIN: We can go ahead and take down the exhibit.

Would you read the question back, please.

(Record read as requested.)

A. Yes.

Q. And now if we could bring up 74, 9 through 11.

Do you recall that at your deposition you testified that "[I]n this market in 2025, it is very, very difficult to attract funding at this stage, for this stage."

A. What's the question?

THE COURT: Do you remember saying that during your deposition?

THE WITNESS: Yes.

ATTORNEY EPSTEIN: You can take that down, Marco. Thank you.

Q. That was a change from 2020 or 2021 when companies were more easily able to syndicate at the preclinical stage; correct?

A. Counsel, when you say "syndicate," what exactly do you mean?

ATTORNEY EPSTEIN: Could we bring up page 73, 11 to 25.

Q. Do you recall at your deposition testifying that you expressed a mistake that "because it was a situation in the market, that was 2020/[20]21, when biotech stock grew substantially against the background of the Covid epidemic, [] a lot of nonqualified investors moved in" --

A. Yes.

Q. -- "so suddenly the sector had much more money in [it]."

A. Yes.

Q. And "At this point [in] time, companies were able to syndicate at a preclinical stage. But this period was [very] short, but Seth and the team seemed to believe that that's how it [was]

going to be from now on."

THE COURT: He needs time to translate.

ATTORNEY EPSTEIN: Of course.

A. Yes.

Q. And so at least at the time of your deposition, it was your view that it is more difficult to syndicate preclinical companies in 2025 --

A. Yes.

Q. -- than it was in 2020 or 2021; correct?

A. It was much easier.

Q. In 2020 or 2021?

A. 21st.

Q. There's nothing that you're aware of in your agreements with Dr. Harrison that conditions funding the portfolio companies on the ability to syndicate; right?

A. I didn't understand the question.

Q. You understand that your -- Rigmora's relationship with Apple Tree Partners and the general partner are governed by contract?

THE COURT: I think the last question is do you understand that Rigmora's relationship with

Apple Tree Partners and the general partner are governed by contract?

What was the response?

THE INTERPRETER: The answer was yes.

THE COURT: Next question.

Q. Are you aware of anything in those contracts that conditions Rigmora's obligation to fund portfolio companies on the ability to syndicate those companies?

A. Limit Rigmora's capabilities to syndicate, is that the question?

Q. No. The question is, do you know of anything in the agreements that says that Rigmora does not need to fund the portfolio company if the syndication market changes?

A. I don't remember.

Q. So as you sit here today, you're not aware of anything; correct?

A. The thing is, I do not get involved in the technical part of document -- documents. The fact of the matter is I vocalize the main directions we need to go, and from that point various attorneys and other specialists get involved. I do not participate in that process.

Q. So you're not involved in the details?

A. No.

Q. And as you sit here today, you're not aware of anything in the agreement that says that Rigmora can stop funding portfolio companies if market conditions change; correct?

A. The fund would syndicate the companies, right. It's not Rigmora that syndicates the companies.

Q. Let me try this question again. Are you, Dr. Rybolovlev, as you sit here today, aware of any provision in the contracts between Rigmora and Apple Tree Partners that says that Rigmora may stop funding approved budgets for portfolio companies if the syndication market changes?

A. I don't remember anything like that.

Q. So do you recall earlier you were talking about wanting your cash to work for you?

A. Right. The money doesn't have to lie in one place; it has to work.

Q. You don't really like it when your cash is just held in an account; right?

A. I just do not like it when the money do not work.

Q. In fact, as a general approach, you did not want large balances held in the companies that you invest in; right?

A. Right. It's just money sitting there.

Q. In fact, in your view, if a company has a cash reserve for more than six months, it's just lying there while it could be doing work; right?

A. Overall, yes, but it depends on various situations.

ATTORNEY EPSTEIN: Could we have 48 -- excuse me, it's 49.

Q. Do you recall that at your deposition you were asked, "Can you tell me what you mean when you say, 'And, therefore, it wouldn't be right for us if there were significant balances in the companies, in biotech companies'?"

A. Yes.

Q. And you were asked, "What [do] you mean by that"?

Do you recall that?

A. Yes.

Q. And you answered, "Well, a company has spare cash for a quarter, had for a year, two years, three years, and accordingly, the cash reserve is for

more than six months, it's just lying there while it could be working."

Do you recall testifying to that?

A. Yes.

Q. And you believe -- withdrawn.

Dr. Harrison has told you before that, in his view, a just-in-time approach is not a path to success for biotech companies; correct?

A. Yeah. We periodically discussed this subject as to what remainder the company should have on their accounts.

Q. And you understood that Dr. Harrison's view was that a just-in-time approach to funding did not work for biotech companies?

A. The thing is that in the biotech the companies syndicated much earlier. Therefore, the model that was used in our fund when the LPs -- the only investor of the LP is LP fund.

ATTORNEY EPSTEIN: I'm going to move to strike that.

THE INTERPRETER: One second. Can I -- can he repeat the answer?

A. For a long time we have been the only investor in the fund, which is LP. And then, if

that's the case, then it works very normally. So when the company syndicates on an earlier stage, therefore it gets the money and the money is on the company's account. This is what happens.

THE COURT: I'm going to ask -- this time will count against them.

ATTORNEY EPSTEIN: Thank you.

A. So while we don't have the syndication yet, we finance it as budget organization. And I believe six months' worth of money is fine for normal functioning of the company.

For example, we did have a situation when the company needed more money to resolve the issue on the business development, for example. When we saw that there was a sufficient amount of money left on the company's account, we always would transfer sufficient amount of money to complete that task.

ATTORNEY SELDEN: Your Honor, I would just note that I believe, via the translation, it appeared that Dr. Rybolovlev is being asked for his understanding and not for a yes/no question. I understand that time will count against us, and I just want to acknowledge that but flag that translation

issue.

THE COURT: So that is five minutes against the clock on the other side.

ATTORNEY EPSTEIN: I'd like to move to strike that as nonresponsive, understanding that it was a translation error. So let's move on.

THE COURT: We have an objection.

ATTORNEY SELDEN: I'm sorry. I just wasn't sure if you were going to strike that as nonresponsive. I have not been noting translation errors as they go --

THE COURT: Yes. So the motion to strike was on the grounds that it was nonresponsive, which it was, although it was due to a translation error. So I'm striking it and I'm counting the time against you all, and we're going to move forward.

ATTORNEY SELDEN: Thank you, Your Honor. I'm trying not to raise translation issues as we go, but -- okay.

ATTORNEY EPSTEIN: I unfortunately don't speak Russian, or we'd be moving more quickly.

THE COURT: Not for me.

BY ATTORNEY EPSTEIN:

Q. So moving on, do you recall testifying

earlier at some length about the importance of milestones and investment memoranda and a formal process for budget approval?

A. Yes.

Q. But do you recall that at your deposition you testified that your normal process was for Dr. Harrison to come over and present one or two of the investments or the companies, and since it's difficult to work out the science and you trusted Dr. Harrison, you would agree with the proposal?

Do you recall that?

A. Overall, yes.

Q. And you testified just a few minutes ago that you don't get involved in the technical details; correct?

A. Yes.

Q. And you recall that you testified at your deposition that once you agreed with a proposal from Dr. Harrison, the further details of the budget and approvals by trustees was done by Anna Kolonchina.

Do you recall that?

A. Yes.

Q. And you testified at your deposition that you do not know the details of the budgeting

process; correct?

A. Yes.

Q. Do you recall testifying earlier about Rigmora's capital commitments to Apple Tree Partners being capped at $2.5 billion?

A. Yes.

Q. And do you recall testifying that, in your view, Amendment No. 20 did not change the amount of Rigmora's capital commitments to Apple Tree Partners?

A. Make changes? Could you repeat it?

Q. Rigmora's original investment to Apple Tree Partners -- how much capital -- I'll withdraw.

How much capital do you believe that Rigmora has committed to Apple Tree Partners?

A. 2.5.

Q. And are you aware that Amendment 20 was signed on June 21, 2021?

A. I don't remember.

Q. I'll represent to you that it was for purposes of this next question. Okay?

A. Sure.

Q. I should correct the record. It's dated June 21 of 2021.

So could we have JX 0230.

If you look at -- you'll recognize, if you look at the screen, the name Anna Batarina; correct?

A. Yes.

Q. And I'll go ahead and read it to you and have it translated since I know you can't read it. It was sent on June 24 of 2021, and it was sent to Anna Kolonchina.

You would agree with me that June 24 of 2021 is later than June 21, 2021; correct?

A. Probably, yes.

Q. Last we checked.

And in the email it says, "Please see attached the capital call notice for [] $2,000,000 Braeburn follow-on as well as the ATLS Fee, Incubation expenses, and the initial amounts for the IGI agreement."

Do you see that?

I understand you can't read it. So I'll represent to you again that that is -- what I've read into the record is what I see on the screen.

So am I correct that you've never seen this email before?

A. Yes.

ATTORNEY EPSTEIN: Can we go to page 4, Marco.

Q. So Dr. Rybolovlev, have you ever seen this chart before?

A. It's hard for me to look at it without external attributes like who prepared it, et cetera. When the chart has too many numbers, I really don't look at it.

Q. So you don't look at charts with too many numbers?

A. Right. I could have seen it as a part of some documents. I cannot just tell you I've seen it just looking by itself.

Q. Sitting here today, do you recall ever seeing a chart that says in Pool V-1 and V-2 as of June of 2021 --

THE INTERPRETER: From June -- I'm sorry.

Q. -- as of June 24, 2021, that there was roughly $940 million left to call for Pools V-1 and V-2? Do you recall ever seeing a chart that says that.

A. I don't remember.

Q. And do you recall ever seeing a chart that says as of June 24 of 2021, there was $310 million left to call in Pool V-3?

A. I don't remember.

Q. So then I take it you also don't remember ever seeing a chart as of June 24, 2021 that said in Pool IV, which was the original investment pool, there was $20 million left to call; correct?

A. I don't remember.

ATTORNEY EPSTEIN: Pass the witness.

ATTORNEY SELDEN: We have no redirect, Your Honor.

THE COURT: Doctor, you can step down.

(Witness excused.)

ATTORNEY BORN: Your Honor, we would call our next witness, Dr. Ehlers, by video.

Dr. Ehlers joined the fund as a venture partner and chief scientific officer in 2019. Dr. Ehlers founded or co-founded four of the fund's portfolio companies and served as board member of several others. Dr. Ehlers left the fund in November 2024, but remains the CEO of Ascidian and continues to serve as a board member of Aulos and Replicate. Dr. Ehlers has declined to testify in person today.

The video of his deposition testimony reflects plaintiff's inclusions. Defendants have designated 18 minutes of testimony, and plaintiff has designated 8 minutes.

THE COURT: Is it in sequence where it's defendants and then plaintiff, or is it all mixed in?

ATTORNEY BORN: We've prepared two versions in case this situation occurred. So we can play it with just ours.

THE COURT: I think it would be helpful to have it mixed in so I actually understand why they're cross-designating what they're cross-designating. We still are going to break in 15 minutes. So let's start it and then we'll take a break.

ATTORNEY BORN: I'm just reading the agreed language. The video contains Dr. Ehlers' testimony concerning the fund's investment in and management of certain of its portfolio companies. We agreed to do it sequentially. So that was the agreed-upon language.

We also overnight prepared a short additional clip of a minute and half of testimony by

Dr. Ehlers that rebuts Dr. Harrison's testimony about the global default charge. We can just play that at the end while we're watching his video or we can do it at the very end of trial, whatever works best for you.

THE COURT: Whatever.

ATTORNEY BORN: Okay.

MICHAEL EHLERS, was examined and testified via video as follows:

Question: So you said a little bit ago that you've now become more aware of what the potential structure and approval process would be. What's your understanding of when the Rigmora LPs are required to contribute additional capital to ATP?

Answer: And probably this is a dramatic oversimplification, it may not be completely correct, because I will freely admit to having, at best, partial information, but I'd say my understanding at this point is that there's budgets that are submitted and reviewed by the LPs. And then kind of based on those -- and for each of these deals there was kind of an initial agreed here's what the Series A financing is and that that commitment through that Series A financing was a commitment that was sort of locked -- like a boxed-in commitment to the given

deal or the given portfolio company where, within that box, tranches of capital could be released upon request based on milestones and other things, that budgets would then get reviewed.

And that over time, I think -- when I say that I became aware of it, because that was all very smooth early on, and then later as, I would say, biotech markets went to hell in a handbasket and it was pretty clear that to be able to get to syndicated financing or pharma deals or other things it was requiring later and later-stage data to the point of clinical data. And, of course, to get to clinical data requires a larger investment in that.

So while some of these deals were reaching their outer end of that initially agreed amount, then it became a different process, right. That's when I say I became more aware. Like with Intergalactic, because it was a very complicated technology, it ended up requiring more money than we'd anticipated going in and some things didn't work. We ended up being through that agreed-upon funding at a point where we had, I'd say, strong in vivo data and proof of concept, but then to get to clinical data was going to be beyond that and that required a different

set of requests. This is this kind of micro tranche sort of thing.

And something similar was kind of experienced at Ascidian where, again, there was an initial agreed-upon amount, and, for that matter, both Aulos and Replicate. In all these cases I was close to, it was a very, I'd say, straightforward process when it was within that initially agreed-upon amount. And as it got beyond that and there was a need to finance or fund further, that that became sort of a series of one-off, you know, mini budgets, mini discussions that just went through ATP.

And that's when -- that's when I say I became more clear about that being a constraint, that it was easier when it was within the initially approved amount and then beyond that everything was a discussion.

Question: When you said "the biotech markets went to hell in a handbasket," when was that?

Answer: Well, when was the -- I mean, the peak of it all -- I'd say the positive peak was, what, early '21? So I'd say we left '21 and into '22 and '23 and '24 and now '25. You know, it really started becoming more challenging. I think this got

particularly notable in '22 on into '23, and it's really continued to today. I mean, this is a well-known phenomenon at this point.

Question: And do you recall whether Ascidian needed to meet certain milestones in order to be entitled to receive the next tranche of Series A funding?

Answer: Yes, that was the general structure.

Question: So you say, "I've updated the milestones in Series A tranches for both Ascidian and Intergalactic as indicated in the attached. Seth gave excellent advice on making the tranche milestones more specifically value-creating data points."

Do you see that?

Answer: Yes.

Question: And why is it key to have the milestones be something that somebody else from the outside looking in can recognize as a value-add?

Answer: It's important for a few things. One is that a tranche financing, I think, de-risks an investment for the investor rather than putting something in as a lump sum, if you will, and that it also focuses the company, management and the

company, on the things that really matter in terms of value as defined by the investors. And I think that's super helpful because when you're running an organization, it's very easy to just sort of run things and do the standard stuff. It's very helpful to have those focused targeted goals that really kind of move the needle and that you're doing that in the most capital-efficient way possible because those dollars in need to be sort of reflected, ideally, in value that's more than the dollars that have gone in, to some extent.

And that's -- of course, value is a vague thing; right? It's kind of whatever anyone else will look at and ascribe to it, but that's the way I think about it.

Question: You mentioned that tranche financing de-risks an investment for the investor; is that right?

Answer: Yes.

Question: How so?

Answer: It provides kind of waypoints through the course of, you know, maybe a larger investment that ensures that there are key goals and key advances made before additional money goes in and

that there's visibility into that.

Question: And you -- you referred to tranche financing. What is that?

Answer: It's taking an amount, an overall amount, say, of a Series A raise and dividing it up into segments.

Question: And is part of tranche financing that each segment of funding is released only upon the achievement of a milestone?

Answer: I would say that is typical. It might not be only, but it's usually kind of guided by -- it's usually automatically triggered by that. And then usually there's some degree to which boards or investors can make judgment calls around it.

Question: And did you expect that Dmitry would be interested in understanding what the milestones -- the tranche milestones were?

Answer: Yes.

Question: Why was that your expectation?

Answer: Well, it was his money that was being invested. So I would expect that he was interested to know what the plan was for this new investment.

Question: And did you expect that he would want to evaluate the fund's investment in Ascidian by reference to those milestones?

Answer: I would imagine so, yes. You know, I think it was -- I mean, my impression from this during that time would have been that this was a required element to approve what the plan would be.

Question: Do you recall how much the Series A funding for Ascidian from ATP was?

Answer: Oh, I believe it was 50 million. It might be a little bit more than that, but I believe it was 50 million. That got expanded over time to the point where, you know, there was a Series A extension. There was a bit more where I think now 90 million overall has gone in, but the original Series A I believe was 50 million.

Q. So I think you said that it was your understanding that Ascidian needed to meet the specified milestones in order to receive the tranches of Series A funding; is that right?

Answer: What I would say is that my understanding for the reason I'm putting these together, Ascidian and beyond Ascidian, was to take whatever the Series A financing was and say we need

this tempo of financing to go in in these tranches, and those tranches will essentially buy you or allow us to fund to this particular milestone. And that that's kind of the plan and that as we go along and achieve these, of course, provide those updates and then seek release of additional tranches of funding.

And, again, I think back to why this de-risks is that, you know, if you're advancing through a company and you realize early on that your core idea is just flawed or doesn't work, then you've not put in the totality of the money to begin with. So it's figuring out step by step what aspects -- is this technology really working, how is it working, et cetera, you know, in a measured way. And that's exactly what we did at Ascidian.

Question: And you may not have had any understanding of this at all. So I'm just going to start by asking you whether you had any understanding. And I've been asking you about what Ascidian needed to do to get the funding from ATP, but did you have any understanding as to whether ATP could call more capital from the Rigmora LPs if Ascidian didn't meet the milestones?

Answer: I think my assumption was

that they could.

Question: What was that assumption based on?

Answer: No information to the contrary, I guess I would say. So, I mean, it was -- I knew that there was a certain commitment, but also I think a selling point for ATP in the model was that as sole owner and investor in a company, there was a lot of flexibility in how investing would occur and that this was a core strategic advantage of ATP relative to, I'd say, a typical syndicated investment where you've got multiple investors, all of which have to agree on things and for which there's much less flexibility in that regard.

That was probably the basis for my assumption on that because I think one of the selling points -- certainly the way I would sell to founders, like why -- why work with us as an investor as opposed to some other investors, I'd say a selling point to founders that I would provide is that, one, you know, there's kind of a full Series A commitment that would go in as opposed to like a seed and do that; and second is you don't have to corral a bunch of VCs to kind of agree and you can focus on execution only. So

those would be selling points.

Again, there are advantages and disadvantages of the kind of model. So I think, you know, based on those as being -- a little bit of the selling points of ATP is probably the origins of an assumption that there would be -- that there was flexibility in exactly how, if needed, there would be additional investment.

And to some extent that ended up being true, right, because Ascidian, at least this -- you know, we went beyond the original Series A investment, you know, as it became clear that things were working to a point, but, you know, we didn't have syndicated financing. And to be able to finance the sort of next things we would need additional capital, and that was -- that was agreed upon. So I think that ended up being basically a correct assumption, at least in this regard.

THE COURT: We'll take 15 minutes.

(Court in recess at 3:00 p.m.)

(Resuming at 3:15 p.m.)

THE COURT: Thank you. I probably don't need to say this, but please remember to tell our court staff, including our court reporters, what an awesome job they do.

Let's continue. Mr. Barlow, you have some housekeeping matters, I understand.

ATTORNEY BARLOW: Your Honor, you proposed shortly before the last break that the video might be watched later. If that is the case, we would propose that the video from Mr. Engels be watched later. If that would apply only to our video of Mr. Engels so that we could present more time in trial testimony, we'd certainly be okay with that, and we would prefer to proceed in that way and use the time for trial testimony rather than video.

THE COURT: All right. So right now we're watching Mr. Ehlers. Am I saying that right?

ATTORNEY BARLOW: We understand that that's underway.

THE COURT: Mr. Engels, how long is that deposition or that testimony?

ATTORNEY BARLOW: Our portion of it is 15 minutes.

MALE SPEAKER: 10.

THE COURT: 10. Okay. And then I understand Mr. Finkelstein was also going to be called by deposition?

ATTORNEY BARLOW: We have already withdrawn all of Mr. Finkelman's --

THE COURT: Finkelman. I'm sorry.

ATTORNEY BARLOW: -- deposition testimony for us.

THE COURT: Correct, but you all wanted to show Mr. Finkelman's?

ATTORNEY SELDEN: Yes. We have eight minutes of deposition testimony for Mr. Finkelman for which we would seal the courtroom.

THE COURT: I can watch that at my desk too, rather than seal the courtroom. It'd be a more convenient way.

So if what you need is more time in court to present live witnesses, I will grant whatever accommodation you need to make that happen. I'm also willing to watch whatever you want me to watch back at my desk, provided it's no longer than what it was just represented.

ATTORNEY BARLOW: Understood, Your

Honor.

THE COURT: So let's finish this witness and go to whatever's next.

(The video was resumed.)

Question: Does this refresh your recollection at all as to whether Ascidian achieved these initial milestones?

Answer: As I look at this, I do recognize these and I would say that we've achieved all those. I don't know if they were exactly at the time points where the milestones are indicated, but I would -- I would say that Ascidian has achieved all those milestones.

Question: And Ascidian, upon its achievement of these five milestones, received the tranches of Series A funding that were tied to these milestones?

Answer: Yes, more or less, I'd say. So we definitely received those tranches and we achieved the milestones.

Question: You referred to there being discussion as to how much runway Ascidian would have with and without the 6 million; is that right?

Answer: Yes.

Question: How much runway -- you know, as of these discussions in sometime around May of 2025, how much runway did Ascidian have without the 6 million?

Answer: Oh, maybe a yearish.

Question: And how much runway would Ascidian have with the 6 million?

Answer: It'd add- -- and, again, it's a yearish based on kind of mile- -- you know, risk-adjusted milestones. I think it's -- Dan Rosan will probably correct me. So on all these things give it a plus or minus, but we -- that would add about two quarters.

Question: Do you have an understanding of how much runway Aulos has at present?

Answer: Oh, I'm going -- the Series B was to fund inclusion of these expansion cohorts. So I think that's going to take until roughly the middle of next year. Roughly.

Question: Okay. So as of today, Aulos has significant -- sufficient cash to get through the middle of 2026?

Answer: I believe that's correct. It was really structured in a way to get through these

expansion cohorts, and I think that's how long it's going to -- that's how long it's going take. I could be off by a bit, but it's roughly that.

It might be more in the third quarter or something.

Question: Looking at the top of the next page at 11:30 p.m. you say, "Craziness. No drug in sight."

Do you see that?

Answer: Yes.

Question: Were you referring to Nereid?

Answer: No. I believe I was referring -- because I think our texts were crossing.

Question: Yeah.

Answer: And I think I was referring to this Marlinspike expansion in headcount and of funding the remaining 35 million.

Question: And so, in your view, it was crazy to fund the remaining 35 million when there was no drug in sight?

Answer: That's what I stated, yes.

Question: And so you say, "It does not seem like optimal capital allocation given where

we are at and reallocation is clearly in DR's best interest for ROI."

Does "DR" mean Dmitry Rybolovlev here?

Answer: It does.

Question: And "ROI" means return on investment?

Answer: It does.

Question: So your review was that reallocating capital away from the six early-stage companies would produce a better ROI?

Answer: I would -- I would put it that ensuring capital allocation to our late-stage programs, wherever they reside, to generate, you know, potentially transformed clinical data was -- was the prioritization. In and of itself, reallocation away, I wouldn't put it that way. I'd say from wherever you get it, we should be prioritizing those clinical programs. And if that means if it's a zero-sum gain across the portfolio, then take it from somewhere else.

Question: Was the reallocation -- this reallocation that you're proposing here in this exchange, is this something you came up with initially, or is this an idea that has roots somewhere

else before this?

Answer: You know, I mean, it seems so obvious to me that other people might have contemplated this as well. So I mean, I -- I don't know if it had origins elsewhere. To me it was -- to me it was kind of an obvious potential strategy here. So...

Question: At this point in time, in August 2024, was it your view that the fund overall would produce a higher return on investment if capital was allocated from these six early-stage companies to the four later-stage companies that we were discussing?

Answer: You know, what I say here I think is clear in that regard because I just say reallocation is clearly in DR's best interest for ROI.

And there could have been nuances about how and exactly what amount and to which programs, in a way, but broadly speaking, yeah, the imperative was to generate clinical data, in my view.

Question: Marking as Exhibit 18 an article by Dr. Michael D. Ehlers titled "Lessons from a Recovering Academic" and dated May 19, 2016.

Answer: One my favorite articles.

Question: You say "Substantial literature indicates that too many drug discovery programs fail at late stages despite the presence of evidence that could have rationally led to termination earlier. Why does this matter? As drug discovery programs advance to screening, identification of initial lead compounds clinical candidate selection and on into clinical trials, the cost soars."

Do you see that?

Answer: Yes.

Question: And then you say, "It is hard to step away from exciting science revealing new biology. So much effort, heart, soul, and money goes into making molecules that are suitable for testing in humans that it is a disappointment when, despite best efforts, the clinical hypothesis is refuted."

Do you see that?

Answer: Yes.

Question: Is this still your view?

Answer: It is.

Question: Did you know when you received this email what Jardine had discussed with Dr. Harrison?

Answer: Yes, I had a pretty good

idea.

Question: What was that idea?

Answer: It was that Paul Da Silva Jardine was concerned about Raj Chopra's management style and leadership of Marlinspike and Aethon.

Question: What specifically were his concerns insofar as he told you?

Answer: Abusive behaviors, inability to retain and attract people a bit as a consequence of that, and, to some degree, kind of a lack of strategic focus.

Question: Do you know whether Jardine took these concerns to Seth?

Answer: I believe that he did.

Question: And do you know whether Seth took any action based on that?

Answer: I -- I am not aware that there was action taken by Seth.

Question: Do you have an understanding as to why Mr. Chopra left?

Answer: Yeah. My understanding is that he got a position within a flagship portfolio company.

Question: And it was your

understanding that he was not fired by Dr. Harrison?

Answer: I've got no information that he was fired at all.

Question: Is it your view now that Dr. Chopra should have been asked to leave ATP at some point before he left earlier this year?

Answer: If it had been me, I probably would have asked him to leave before that.

Question: So, Dr. Ehlers, do you recall earlier in the deposition you were showed Exhibit 8, which is an email with an attachment of the Aulos SPA?

Answer: Yes, I have it in front of me.

Question: And I believe you were asked about several provisions in this document as it concerns milestones, and that is at -- it's after the blue sheet, Bates ending 360.

Answer: Yes.

Question: And do you --

Answer: I recall.

Question: Okay. And do you recall testifying about the board reasonably determining in good faith whether the company had a milestone and if

that would lead to the release of funds?

Answer: Yes.

Question: And is it also your understanding that the GP had discretion with regard to calling capital for the portfolio companies?

Answer: Yes.

Question: And if you go to Bates ending 361, there is a highlighted paragraph in the middle of the page.

Do you see that?

Answer: Yes, I do.

Question: And counsel skipped that paragraph when she was questioning you earlier; is that right?

Answer: We didn't discuss it, that's correct.

Question: And in your words, what does this provision provide for?

Answer: Just a minute. I'll read it.

So my understanding of this provision is that it allows the purchaser, in this case ATP, to purchase any additional shares or kind of outstanding shares at any time that they wish, provided they give appropriate notice.

Question: And is this reflective of your understanding that ATP or the GP had discretion with respect to calling capital?

Answer: Yes, as stated here. So if they -- if ATP wanted to, they could purchase additional shares and put in additional money at any time.

Okay. But assuming you weren't capital-constrained, would you be -- you would not be forced in deciding allocation between certain companies over other companies?

Answer: That's probably true.

Question: Okay. And over your time at ATP, there were obviously instances where you raised concerns with Seth; is that accurate?

Answer: Yes.

Question: Okay. And, for example, you raised concerns with Seth about Raj; is that right?

Answer: Yes.

Question: And do you -- did you feel free to voice concerns with Seth when you had them?

Answer: I did, yes.

Question: And is it fair to say that

he would listen to you sometimes with respect to your concerns, i.e., for example, removing Raj from the board?

Answer: That's accurate.

Question: And were there other times where Seth decided to go in a different direction?

Answer: Yes. Yeah.

Question: And did that sort of go hand-in-hand with Seth's discretion in running ATP?

Answer: Well, I mean, what I would say is fundamentally these were Seth's decisions on these matters, whether it was personnel or portfolio companies.

Question: Okay. And you'd agree that through Seth's decision-making over the years ATP has generated significant value through its portfolio companies?

Answer: Well, I think the financial numbers would support that.

(Video paused.)

ATTORNEY SELDEN: Good afternoon. I would like to play the next clip of the rebuttal testimony. I understand plaintiff has an objection.

ATTORNEY BARLOW: I'm sorry, Your

Honor. This is Ehlers rebuttal testimony. Go ahead. I withdraw the objection.

(Video resumed.)

Question: During your time at ATP, did you have any understanding as to whether the LPA referred to a default charge?

Answer: I would say during my time at ATP, no. Only after I left ATP and there was the announced litigation and the publicly available stuff on that did we become -- did I become aware that there was such a thing.

Question: So the default charge is not something that you discussed with Dr. Harrison during your time at ATP or before you joined ATP?

Answer: Well, definitely not before I joined ATP.

Was I ever -- I don't think that while I was at ATP I ever had a discussion on that, because I think my awareness that there was such a thing only came about when this litigation came about. And if I'm remembering correctly, I mean, I left ATP November '24, and I think this was afterward.

Question: And so to be clear, that's not something that you discussed with executives at

any of the ATP portfolio companies --

Answer: No.

Question: -- with which you were involved?

Answer: No. And I'm not -- I don't even know if any of -- if any of those folks have an awareness of it, it would have come through whatever publicly available information of the litigation.

(End of video clip.)

ATTORNEY ROHRBACHER: Counter-housekeeping, Your Honor. So we have Dr. Rimm that we will put on on direct. We understand that the plaintiff would like to play their video in your office. The Finkelman video would make sense because it would require sealing anyway. Time-wise they're about an hour and a half. They've used more than -- an hour and a half more than us, 87 minutes to be precise. So given the time left, we would still like to play our Engels clip. If they wanted Your Honor to watch that in the comfort of your office, that's fine. But we have Rimm, then we'd like to play our Engels clip, and then we have Alexey Yakovlev. And we believe we have plenty of time under what we should have available.

THE COURT: Okay. Let's proceed.

ATTORNEY TAFT: Your Honor, the defendants call Dr. Illona Rimm. And we do have witness binders. With permission, we'll approach.

ILONNA RIMM, having first been duly affirmed, was examined and testified as follows:

DIRECT EXAMINATION

BY ATTORNEY TAFT:

Q. Good afternoon, Dr. Rimm.

A. Good afternoon.

Q. Could you please introduce yourself to the Court.

A. My name is Dr. Ilonna Rimm.

Q. Thank you.

Dr. Rimm, have you ever served before as an expert giving testimony in court?

A. I have not.

Q. Okay.

ATTORNEY TAFT: We have some slides, Mr. White, thank you. And the next slide, please.

Thank you.

Q. Dr. Rimm, could you please describe your medical and scientific training for the Court.

A. Yes. I graduated from Harvard

University with an MD and a Ph.D. in immunology. I then took care of patients for 20 years. I worked at Boston Children's Hospital, the Dana-Farber Cancer Institute, and the Brigham and Women's Hospital. In my last role I served as an attending in a stem cell transplant unit for eight years. In addition, I served as an attending physician on the pediatric oncology service.

This time was very important in my career. I took care of patients with very serious illnesses, and I came to understand that via health care innovation we, with our hands, could develop cures for these previously incurable diseases. And that was very exciting to me. I was so excited about health care innovation, I decided to make a transition in my career to learn more about how health care innovation is done.

Q. Dr. Rimm, at that point, did you begin to get involved in investing in life science industries?

A. Yes. I started at Wyeth Pharmaceuticals, where I served in global business development as the manager of genomics deals. I then moved to venture capital. I worked at Oxford

Bioscience Partners, where I was an entrepreneur-in-residence. I worked closely with all of the general partners, deciding where we should invest money and which of the portfolio companies should receive additional money and which portfolio companies should not receive additional money.

I then moved to the public equity side of health care investing and worked there for a number of years. During that time I decided I really needed to learn more about valuation, and I completed the chartered financial analyst designation.

Currently I work at Rimm Healthcare Capital Advisory, where I work with early-stage health care companies, and I work with the CEOs as they are starting to raise their seed rounds. I do that work at the Harvard Innovation Lab, which is located on the campus of the Harvard Business School.

Q. Thank you.

ATTORNEY TAFT: Your Honor, we offer Dr. Rimm as an expert on biotech investing and the evaluation of early-stage biotech companies.

THE COURT: Any objection?

ATTORNEY BERDON: No, Your Honor.

BY ATTORNEY TAFT:

Q. Dr. Rimm, could you address some of the common risks that investors in early-stage biotech companies face.

A. Yes. Investing in early-stage biotechnology is extremely risky. There is the scientific risk, the clinical risk, the regulatory risk, and the competitive risk. In addition, the process takes 10 to 15 years, which, again, increases the risk.

ATTORNEY TAFT: Mr. White, could we bring up the next slide.

Q. And, Dr. Rimm, you've prepared some slides in connection with today's testimony; correct?

A. Yes, I did.

Q. Okay. Could you please describe how this slide relates to the opinions in your report.

A. Certainly. So this slide shows the drug development process. As you can see, across the top is a timeline. And as you can see, the timeline takes a long time, from basically 10 to 15 years.

The drug development process goes through discovery, clinical, preclinical, clinical and commercialization. And as we've discussed already a bit, between discovery and preclinical is a very

important milestone called development candidate nomination where a particular single molecule is moved forward. Then that molecule is tested in animals in the preclinical setting, and then we get to the investigational new drug application which is submitted to the FDA, the IND, a very important, again, valuation inflection point. Then the drug goes to clinical trials, which can last many years and have a 90% failure rate. After that, the few remaining molecules that actually become drugs are commercialized and there can, in addition, be failure at the commercialization stage. So there's extensive failure in drop auto-molecules at every stage along the line.

Q. And how could a drug candidate fail at the clinical stage, for example?

A. So at the clinical stage drugs fail either on safety or efficacy. In this country, we want to have drugs that are both safe and efficacious. So we take a lot of failure along the way.

Q. And you focused on the DCN and the IND. Why are those particularly relevant points in the drug development process?

A. Those two points are valuation

inflection points, particularly the IND. If a molecule has passed the IND stage, it can be bought and sold quite easily. Whereas a molecule at the DCN stage at least has more value than a molecule before the DCN stage. So those are stages that are known to have valuation increments.

Q. Thank you. How long does -- sorry. How much does this process generally cost in terms of capital investment?

A. The clinical trials themselves can cost hundreds of millions of dollars. So the entire process is frequently said to cost $2 billion primarily because of all the failure along the way.

Q. And in addition to I think you mentioned regulatory risks and the risk of failure of efficacy or safety, are there other risks that investors in biotech companies need to be aware of when considering the drug development process?

A. Yes. Importantly, there are leadership and management risks. So the question is, you know, if a small group of scientists say they're going to deliver on a particular milestone, will they actually deliver on that milestone on time? And this is considered to be a very important risk.

Q. And, Dr. Rimm, how do investors mitigate the risks of investing in these early-stage biotech companies?

A. Investors mitigate this risk by investing in tranches or bits or segments. So they invest -- if someone is going to invest 50 million, they would usually invest it in bits or tranches of 10 million. We can talk through this on the next slide.

ATTORNEY TAFT: Mr. White, can we pull up the next slide. Thank you.

Q. What does this slide show?

A. So this shows that venture capital investors who are interested in return, which is a key point, use milestones to mitigate risk. And this slide shows the milestone base tranche funding for Deep Apple, according to the investment memorandum. And this is just a sample of what the notion of a tranche investing is.

So at the initial close, the management team of Deep Apple would receive the investment of $5 million in the 2021 quarter 4. Then their job is to generate a lead by the Q3 2022. Let's assume they do. And then they would receive tranche

2, which is $7 million. And they are supposed to take tranche 2 and generate a development candidate nomination, or nominee, a development candidate, and they're supposed to do that by the second quarter of 2023. If they do that successfully, then the investor invests another $12 million.

However, if they fail to do that, if they fail to nominate the development candidate or if they nominate it late, then there may be reconsideration of whether the investor would like to invest tranche 3 or whether the investor would plan to take their assets and invest them somewhere else.

Q. Okay. And how does this milestone-based tranched funding program help mitigate risk?

A. It helps mitigate risk because it addresses the issue of whether a team can actually deliver their milestones on time. And the invest- -- that's something that happens over time. So the investor has a chance to see whether the team will deliver on time.

Q. And if a team is not delivering on time, what signals would that give to an investor?

A. That would usually be seen as quite

concerning by an investor. And the investor would be in a position to make a decision about whether they want to move their assets to something else and invest their next tranche of assets into something else or whether or how it would be handled. But it is certainly a serious issue if a team does not accomplish its milestones on time.

Q. Thank you.

What if a company at some point during this drug development process decides to move away from the initially anticipated program and focus on either a different drug candidate or a different program altogether, how would that be handled in the context of a milestone-based tranched funding program?

A. The way that would usually be handled is a new discussion with new written documentation and additional investment memorandum and an additional discussion of what the new milestones and what the new assets required are, because, again, the investor wants to have a choice about whether they want to do the new approach, whether they want to commit their assets. And it's important to remember that the work that was left behind is essentially a sunk cost that the investor has. So the investor might or might not

wish to go forward with the new approach.

Q. And would it be necessary or typical for there to be a discussion of the new budget in light of the -- of a new budget in light of the changed approach?

A. Absolutely.

Q. Based on your two decades of experience in the biotech industry, how common is this milestone-based investing?

A. I found that it was extremely common. Essentially every organization that I've been involved with that is involved in investing wants to know -- invest in tranches in early stages and wants to know will a team perform according to very specific goals. Occasionally it's called something different than tranches, occasionally it's called stages or rounds, but there's always a sense that there's a measured approach. The investor wants to invest a small amount, and then see if the team performs before they invest any additional assets.

Q. Now, Dr. Rimm, you were here in the courtroom yesterday for Dr. Robbins' testimony; correct?

A. That's correct.

Q. Do you recall that Dr. Robbins testified that he was unaware of any academic literature supporting your milestone-centric analysis?

A. Yes. I heard him say that.

Q. Did that surprise you?

A. Yes. It surprised me, particularly surprised me because one of the references for his slides was a document by Roger Wyse, who was a banker at Burrill, that documents that venture capital routinely works with biotechnology companies in tranches.

ATTORNEY TAFT: Mr. White, could we please turn to Robbins Slide 8, and if we could highlight the upper left-hand corner, please, or expand it.

Q. Dr. Rimm, is this the slide that Dr. Robbins presented with this reference?

A. Yes. And that's the reference, and it refers clearly to biotech investing and tranche and venture capital investing in tranches.

ATTORNEY TAFT: Could we please pull up JX 1581, page 7.

Q. If you look -- do you recognize this article?

A. Yes. Yes.
Q. And what is it?
A. It's the article that we were just referring to.
ATTORNEY TAFT: And if you pull down to the introduction.
BY ATTORNEY TAFT:
Q. Does this article focus specifically on venture capital investing in biotechnology companies?
A. Yes, it does.
Q. Do you recall what section of this article addresses the milestone-based tranche funding?
A. Yes, it's Section 4.1.2 that's on page 1284, I believe.
ATTORNEY TAFT: I think that's a reference to 1284, so I think 10. If we could go to JX 1581.10 and pull up 4.1.2, please.
Q. Dr. Rimm, what part of this section were you thinking of?
A. So I'm going to read the very last sentence of the paragraph that starts with "Venture capitalists will mitigate their own risk by offering funding in stages, investing more money as the company

passes each technological milestone."

Q. And is that consistent with the opinion stated in your report?

A. Absolutely. And I cited other additional academic references in my report.

Q. Thank you.

Dr. Rimm, in your report do you evaluate whether the fund's early-stage companies met their specified milestones?

A. Yes, I did that.

Q. And what materials did you rely on in order to reach your opinions?

A. I reviewed the investment memoranda, and I reviewed the quarterly digests.

ATTORNEY TAFT: And if we could pull up the next slide in Dr. Rimm's -- thank you. I believe it's the next one. Thank you.

Q. Dr. Rimm, what was your conclusion after analyzing the fund's performance against their milestones?

A. My conclusion was that the early-stage portfolio companies failed to meet their milestones, which is shown on this slide. The seven early-stage companies are listed down the left side. The years

are listed across the top. And we're going to go talk about Apertor, which is the second company down.

As you can see in the first couple of years, Apertor completed their milestones on time. However, then we move to the light yellow, where we see that the milestones were completed late, including important milestones, DCN, IND. And then when we get to the right side, we are in salmon where milestones were not met.

As you can see, Apertor failed to complete a number of milestones. When we look at the graph in general, we see that all seven companies have salmon on the right side. And these are all the important milestones, the IND and DCN Phase 1 trial milestones. In addition, a number of these milestones are two or three years late, and they are -- it's not an occasional month here, month there. We are talking about years late in several of these companies. So all of these companies failed to meet their milestones.

Q. And in analyzing the early-stage companies' performance against milestones, Dr. Rimm, did you also consider how that performance related to the amount of capital that had been funded into those

companies?

A. Yes, I did.

Q. And what was your conclusion?

A. It's on it. Can we look at the next slide.

ATTORNEY TAFT: Could we pull up the next slide, please. Thank you.

A. My conclusion was ATP had called capital for tranches with unmet milestones.

So, again, the seven early-stage companies are listed down the left side of the slide. The tranches are listed across the top. Again, on the left side, the gray bars show that there's capital drawn and milestones complete.

On this slide we're going to look at Deep Apple, which is the fifth company down. As you can see, for the first 24 million that was invested in Deep Apple the milestones were complete. However, then there were 19 million was drawn and the milestones were not met. Even though the milestones had not been met, an additional $9 million was called for. As you can see, again, in all of these companies, as we look to the right, all of the companies had substantial situations where there was

capital drawn and milestones not met.

Q. Thank you.

ATTORNEY TAFT: We can take down the slides, please.

Q. Dr. Rimm, in connection with the preparation of your rebuttal report, did you review opinions offered by Dr. Rao in this case?

A. Yes.

Q. And do you recall that Dr. Rao in his first report described certain valuations of the portfolio companies that were prepared under accounting standard ASC 820?

A. Yes, I saw that he did that.

Q. And in your opinion, is the information presented in those reports useful for the purposes of an investor in a biotech company?

A. No. I find that the valuations -- valuations of early-stage biotechnology companies are complicated and not done like other types of valuations. The valuations presented by Dr. Rao are essentially valuations based on the amount of assets put into the company, which is just not informative and not helpful.

As you know, I spent time thinking

about valuations. It's difficult to evaluate valuations in very early-stage biotech companies. Any company before the DCN and the IND is very difficult.

Q. Dr. Rimm, do you have an opinion as to whether Rigmora's refusal to make further investments in companies that had missed their milestones was consistent with reasonable investor behavior?

A. Yes. I think Rigmora's approach to decline funding for these companies was very reasonable. A reasonable investor, particularly an investor who is interested in return, which is specifically a reasonable investor, would have said that these companies missed milestones and called capital. And under that circumstance, it's very reasonable to decline further funding.

ATTORNEY TAFT: Thank you. I turn the witness.

THE COURT: Thank you.

CROSS-EXAMINATION

THE COURT: Please proceed. Thank you.

BY ATTORNEY BONACORSI:

Q. Good afternoon, Dr. Rimm.

A. Good afternoon.

Q. In forming your expert opinion in this matter, you never examined how Rigmora actually used budgets and milestones in connection with making its investment decisions; correct?

A. What I did was reviewed the investment memoranda and the quarterly digests.

Q. But you didn't examine Rigmora's actual behavior through its employees and internal communications to assess how it used budgets and milestones in connection with making its investment decisions; correct?

A. Yes. I know very little about Rigmora's internal decision-making process.

Q. And instead you worked from industry knowledge; is that right?

A. I worked from industry knowledge, the investment memoranda and the documentation of the work, the scientific work that was accomplished, which was documented in the quarterly digests.

Q. You testified that you have limited knowledge related to the capital calls involved in this matter?

A. I have some knowledge related to them, but I was asked to focus, again, on the documentation

of the milestones and that was less related to the capital calls.

Q. In fact, when you wrote your report, you testified that you did not know who at Rigmora was the individual responsible for approving capital calls made by ATP?

A. Yes. And I'm not sure why I would have known that.

Q. And you don't know whether anyone at Rigmora analyzed the likelihood of any of the preclinical companies you analyzed in your report hitting future milestones prior to May 15, 2025?

A. So that sounds like it's a question about what happened within Rigmora, and I have no information about what happened within Rigmora.

Q. And to confirm, one aspect of your expert opinion here concerns the reasonableness of Rigmora's decision to no longer fund the preclinical companies?

A. Yes.

Q. Okay. And you'd agree that your opinion does not address any information about Rigmora's assets, liabilities, or liquidity as of May 2025?

A. Yes. I was asked to evaluate the milestones in the early-stage companies, which does not include the information that you just described.

Q. And it would also not include Rigmora's actual risk tolerance at any time between 2021 and 2025?

A. I did not make any inquiries or have any information about Rigmora and its risk tolerance.

Q. And in your materials cited in your opening report, which is JX 1579, and the page 0082 -- if we could pull that up, please -- and you'll see there's a section here, Dr. Rimm, "Depositions."

Do you see that?

A. I'm trying to get to the right page here. So that's in the later part. Could someone give me the page number again, please.

Q. It's 0082. It should be on the screen in front of you. Or it was.

A. Only part of it is on the screen in front of me. So yes. Go ahead.

Q. And you cite three depositions here; right?

A. Yes.

Q. And none of these depositions are from

Rigmora employees; is that right?

A. Yes, that's my understanding.

Q. And that's because you did not rely on depositions of anyone who actually works at Rigmora; correct?

A. Yes, that's my understanding.

Q. But you do cite the depositions here of certain ATP employees; correct?

A. Yes.

Q. And you reviewed those depositions; right?

A. Yes, although I reviewed them in a limited way. I reviewed them mostly related to the -- to my assignment, which was to assess the milestones. I did not review them in extreme detail.

Q. So you'd agree, then, that you cite those depositions for certain limited points; is that right?

A. Yes.

Q. But you don't rely on any of the testimony in those depositions regarding ATP's actual use of milestones, do you?

A. That's -- no, I don't rely on their comments related to use of milestones in general.

It's possible that I relied on -- that I occasionally used pieces of them, but not as a general statement.

Q. Okay. And you testified earlier that you've some experience working in venture capital?

A. Yes, I do.

Q. And I believe you testified during your deposition that you understood that from that experience limited partnership agreements are important in that context?

A. Yes, of course.

Q. And you also testified that you knew a limited partnership agreement exists between the parties here; is that right?

A. Yes. However, limited partnership agreements are complicated and different, and as part of my role I was not asked to review that.

Q. So you did not review the limited partnership agreement in this case?

A. I reviewed it in a very limited way, meaning only in relation to the role that I was assigned, which was to assess the milestones.

Q. You did not review the limited partnership agreement to determine the role of budgets in the relationship between Rigmora and ATP?

A. I did not review it for that purpose, that is correct.

Q. And you did not review the LPA to determine the role of milestones in the relationship between Rigmora and ATP, did you?

A. I did not review it with regard to that issue. Most of my information related to milestones has to do with my 20 years of experience investing in life sciences. And so in that setting milestones have a very important role. And essentially, as I say, all investors I've ever interacted with address the issues of milestones, although they are sometimes called stages or something else. So I relied on that knowledge.

Q. And to confirm something you testified earlier, then, Dr. Rimm, you didn't rely on the testimony of individuals actually within Rigmora and their use of milestones, did you?

A. No, I did not rely on that.

Q. Okay. And you did not review the LPA to determine the role of investment memoranda and the relationship between Rigmora and ATP, did you?

A. I did not do that. However, again, I was very involved in the senior leadership role of a

venture capital firm for two years. I was very familiar with investment memoranda, and investment memoranda and milestones are used similarly in most venture capital firms. So I wouldn't have thought that it was necessary to review the details in this situation because of my extensive industry experience.

Q. But you didn't review the LPA in the detail necessary to determine with specificity how the parties here chose to outline the contractual obligations to one another.

A. I did not review the LPA with that issue in mind.

Q. Okay. And you also didn't familiarize yourself with any of the portfolio company Series A stock purchase agreements, did you?

A. No. I know they exist, but I was asked specifically to work on the investment memoranda and the quarterly digest, which I think is -- again, this is an industry-wide phenomena that milestones would be in the investment memoranda, and, again, quarterly digest is an industry-wide phenomena. So I paid most attention to what I perceived as a biotech investor are the usual important documents for this situation.

Q. But you'd, of course, agree that parties can set forth whatever contractual obligations they'd like in a limited partnership agreement; right?

A. I think that I am not an authority on that question.

Q. In forming your opinion in this matter, you also didn't rely on any of the portfolio company board materials, did you?

A. Could you restate the question, please.

Q. In forming your opinion in this matter, you didn't rely on any portfolio company board presentations, did you?

A. Well, we -- close to the end I saw some of them, but I didn't rely on them. I would say that eventually some of those became available, but they were not used extensively.

Q. And you acknowledge in your opening report that VCs typically assess multiple factors in looking at investments?

A. Are you asking the question of whether they look at multiple factors, whether when they are deciding to invest; is that the question?

Q. Sure.

A. Yes. VCs look at many aspects of the scientific and clinical and other aspect of a company when they are in the process of making a decision about whether to invest.

ATTORNEY BONACORSI: And could we pull up JX 1579, please, and go to page 27, para 56. Sorry. Page 27, para 56.

Q. And, Dr. Rimm, you see here you state, "In making investment decisions, the VCs assess several key factors, including the scientific soundness of the technology, the experience and composition of the management team, the therapeutic indication and degree of unmet medical need, and the broader regulatory and competitive landscape."

Do you see that?

A. Yes, I see that statement.

Q. And despite that statement, your opinion is based entirely on the quarterly digest in the investment memorandum?

A. Absolutely, yes. I mean, what we're talking about is the original -- what that statement refers to is the initial investment decision, and beyond that, there is very detailed attention paid as to whether the company accomplishes its milestones.

And I -- therefore, that's just the way that issue is handled on the investment level.

Q. And so to confirm, you did not consider all of these factors that you list in your report in this case?

A. I would have thought it was not appropriate to consider those factors. Those factors are usually considered at the beginning. And I arrived when the companies had already been started, and I assume those factors were considered as the initial investments were made. That's usually how it's done.

Q. An investment decision can occur at multiple points within a broader investment strategy; is that right?

A. Well, that's -- what is the question here?

Q. You state in your own expert report here para 56, the first part of this says, "In making investment decisions ...."

You don't say at the outset of an investment; do you?

A. No. I don't say it there, but that's actually accurate. Okay. At the -- usually biotech

companies are started by very smart people. And when I refer to making investment decisions, I'm referring to the fact there that the initial investment decision usually includes all the factors that are listed there.

Q. Okay. And pivoting a little bit here, when forming your opinion in this matter, you did not consider the likelihood of any of the preclinical companies meeting significant milestones in the future; did you?

A. I assessed whether companies had met the milestones as of the end of the first quarter of 2025.

Q. And not beyond that; right?

A. There was no reason to go beyond that that I -- I was not asked to do that.

Q. And you don't believe that hitting milestones in the future would inform the reasonableness of Rigmora's decision not to continue funding?

A. I do not.

So when a company tells me it's going to hit a milestone in the future, what my question is is how did they do on their past milestones? So if a

company has routinely hit their milestones on time, then I'm not so worried about the future. If the company has routinely not hit its milestones on time, then I see the future -- any statement about future milestones as pure speculation.

Q. And, Dr. Rimm, you did not analyze in forming your opinion with respect to the set of preclinical companies the timing of a potential preclinical exits, such as acquisitions or potential partnerships with larger biopharma companies; did you?

A. Could you rephrase the question?

Q. In connection with forming your opinion, you did not analyze the timing of potential preclinical exits, such as acquisitions with the preclinical companies; did you?

A. No, I did not analyze that because we were looking -- I was looking specifically at meeting milestones.

I am aware, as an investor, that those types of exits can occur, but that's not the question that we were addressing here. And these companies were much -- were way before -- very, very early compared to those types of events.

Q. And in forming your opinion, you also

did not -- and this is to quote Mr. Bogdanov -- form the opinion there was no way for a path to commercial success for any of the seven early-stage companies listed in your report; is that right?

A. Could you restate it? I believe that you cited someone who I'm not sure who I know who that is.

Q. We can move on to the next question.

And, Dr. Rimm, you testified about Deep Apple a few minutes ago?

A. Yes.

Q. And you understand that there was an $812 million deal between Deep Apple and Novo Nordisk in June of this year; right?

A. Yes. And I'd like to talk about that deal because I'd like to state that calling it an $812 million deal is a substantial overstatement to what actually happened. That is the description of a deal that's all the possible money that could ever come to Deep Apple, and that almost never happens.

What actually happens is a single payment is made early on, and that's called the deal. And the deal payment in this situation was like $30 million. But at every milestone later when a

payment might be made there's a decreasing probability that that payment will be made.

So I was certainly aware of this, but, you know, large companies do huge numbers of deals like this. They frequently only pay the upfront payment, and they don't pay any later payments because they don't particularly choose to go after that target.

So I did not find -- although it's nice that such a deal happened, as I say, I think it's important to characterize the actual financial value of the deal.

Q. And just -- you didn't do any specific analysis to test the hypothesis that that deal might not have actually been worth $812 million?

A. I'm very aware of all of these deal structures. So I worked in Wyeth Global's business development for two years and worked on these structures and then spent another 20 years interacting with these deal structures with a large number is in the vernacular known as biobucks and everybody circulates the large number, but what actually happens is the very small amount of money is transferred upfront and frequently none of the later payments ever

occur.

Q. Just to close this out, though, you did not do any specific analysis with respect to the deal between Novo Nordisk and Deep Apple, did you?

A. What analysis would be done?

Q. Beyond speaking from your general industry knowledge, did you do any investigation into the deal, paperwork or otherwise?

A. Yes, I read the deal. That's where I have the money, the upfront payment. And as a result, I also know what the milestones were. Some of these milestones were this target is commercialized, some of the larger milestones. So that molecule is very far from commercialization and, as we just discussed, the probability is very low.

Q. Okay. And, Doctor, you were in court yesterday; right?

A. What is the question again?

Q. You were in court yesterday?

A. Yes, I was in court yesterday.

Q. And did you hear Dr. Liras testify here in court yesterday?

A. I did, but I was sitting in the rear. I could hear only some of what was said. So I'm not a

reliable listener or reporter on what was said.

Q. But you did testify just a few minutes ago that you heard what Dr. Robbins testified yesterday in court; right?

A. Yes. I heard that. And also I had, you know, seen his reports and things.

Q. Just a few more questions. And did you hear Dr. Liras testify about ATP's flexibility with respect to milestones?

A. You know, I really cannot respond to that question. I just don't have enough information about what I heard.

Q. Okay. And you also just probably saw the tape played by your counsel where Dr. Ehlers also testified about the flexibility of ATP's approach with respect to milestones.

Do you recall hearing that?

A. I saw that there was -- I saw the tape that was being played. I actually was not impressed that this was really about the flexibility of ATP about milestones. I was more impressed that Dr. Ehlers was commenting that milestones had to be completed in order for tranches to be invested.

Q. So you don't recall just seeing a few

minutes ago him say that ATP did have a flexible approach with respect to milestones?

A. Well, what I recall is that Dr. Ehlers reported that milestones had to be completed. The term "flexible"" probably was used, but it depends on, you know, what the adjective of the moment is. But he certainly did comment that milestones were attended to.

ATTORNEY BONACORSI: Okay. No further questions. Thank you.

REDIRECT EXAMINATION

BY ATTORNEY TAFT:

Q. Very briefly, Dr. Rimm. Counsel took you to JX 1579.30, which was page 27 of your report. You can turn to it in the paper version it might be easier for purposes of this question.

A. Page 27?

Q. Yes.

A. Almost there. Yes.

Q. So counsel showed you paragraph 56; correct?

A. Yes, that's correct.

Q. What section of your -- what is the subheading for the section of this report?

A. "The Investment Thesis."

ATTORNEY TAFT: Thank you. No further questions.

THE COURT: All right. Thank you, Dr. Rimm.

THE WITNESS: Thank you.

(Witness excused.)

ATTORNEY TAFT: Your Honor, we would call our next witness, Mr. Engels, by video.

Mr. Engels was plaintiff's chief financial officer from April 2021 until August 2025, when he left ATP. Mr. Engels has declined to testify in person today. The video of his deposition testimony reflects plaintiff's inclusions. Defendants have designated 11 minutes of testimony, and plaintiff -- and I believe that that's the entirety of the testimony that will be played in court.

The video contains Mr. Engels' testimony concerning ATP's statements to third parties concerning the amount of capital committed to the fund following Amendment 20.

WILLIAM ENGELS, was examined and testified via video as follows:

Question: When did you form an

understanding of the purpose of Amendment 20?

Answer: I mean, I think, as I said, it -- it developed over time. It's a pretty complicated amendment, restructuring the fund. And so as we understood it, the mechanics of it better and what the functions of each of the different pools and how all of the different components would work, it took a little bit of time to figure out.

I'm not sure -- it wasn't like a light bulb went off on a certain day, but eventually we got comfortable with it.

Question: If you could go to the page that is Bates stamped 114558. Mr. Ravski provides First Republic with copies of the subscription agreements.

Do you see that?

Answer: Yes.

Question: He says, Please note that these agreements total 1.5 billion of committed capital that has since grown to 2.5 billion, which you will find in the amendments to the LPA.

Do you see that?

Yes.

Question: Was that accurate statement

when Mr. Ravski made it?

Answer: No. I think at the time we were still working through the impact of Amendment 20. This was just -- just about a month after it had been signed. And I think, as we discussed, it moved a lot of things around and changed a lot of aspects of the partnership. And so we were still getting a grasp of what it all meant and how it all flowed through.

Question: Could you turn to page 263 of the '24 financials, please. And very briefly, middle of the page, the paragraph that starts, As of December 31, 2024, that reflects the five separate pools in which the fund holds assets; correct?

Answer: Correct.

Question: Okay. And in the paragraph that starts, Pool ATP IV, you still have the reference to the $1.5 billion; correct?

Answer: Yes, it does reference that.

Question: And in the paragraph that starts, Pool ATP V-2, you still have the reference to the $1 billion?

Answer: Yes.

Question: So the paragraph that starts, ATP V-3 does not indicate a dollar amount of

additional capital commitments; correct?

Answer: It does not.

Question: Okay. And the paragraph that starts, Pool Braeburn also does not indicate a dollar amount of additional capital commitments; correct?

Answer: Correct. Those have been consistent with how we've presented them in this footnote.

Question: If we could turn to the document with Bates 392150. This is a list of Apple Tree entities; correct?

Answer: Yes.

Question: And is it your understanding that these are the entities that would be named insureds under the proposed insurance policy?

Answer: Yes.

Question: And is the fund listed among these entities?

Answer: Yes.

Question: Okay. And what is the amount of committed capital that is identified as being committed to the fund in this schedule?

Answer: 2.5 billion.

Question: Okay.

Answer: So it's 18 days after Amendment 20.

Question: Okay. I'm marking as Engels Exhibit 22 -- sorry, 23? -- 23, an email from you to Ms. Afif, with the Bates ATP 104423. The subject is "Professional and Management Liability Insurance Application."

Answer: Okay.

Question: Do you believe you sent this email on or about May 18th of 2023?

Answer: Yes.

Question: I would like you to turn to page 104427. And this section of the application is asking for details about the fund that is applying for insurance; correct?

Answer: It looks like it, yeah.

Question: Okay. And if you turn the page to 104428, what is the amount of total committed capital that is identified for the fund?

Answer: On here we have -- on here, what is listed as 2.5 billion.

Question: And from time to time in your capacity as CFO are you asked to provide letters

to landlords of portfolio companies in connection with their obtaining a -- a lease?

Answer: It's pretty rare, but yes.

Question: Okay. And if you turn to the attachment, this document, ATP 112834, is this such a letter?

Answer: Yes.

Question: Okay. And that's your signature on the page?

Answer: Yes.

Question: And just looking at the first paragraph, how do you describe ATP?

Answer: Pretty generally. As a very early-stage life science venture capital fund with 2.5 billion of committed capital. Yeah, I think it's pretty generalized.

Question: Okay. This is over a year after the execution of Amendment 20; correct?

Answer: Just over a year, yeah.

(End of video clip.)

ATTORNEY DUTZ: Your Honor, Sebastian Dutz, Debevoise & Plimpton. Defendants would call Alexey Yakovlev as our next witness.

ALEXEY YAKOVLEV, having first been

duly affirmed, was examined and testified as follows:

DIRECT EXAMINATION

BY ATTORNEY DUTZ:

Q. Good afternoon, Mr. Yakovlev.

Could you please state your full name for the record.

A. Good afternoon. I'm Alexey Yakovlev.

Q. Could you briefly describe your educational background.

A. I graduated from Moscow Institute of International Relationship with major in finance and accounting.

Q. Could you briefly describe your professional background.

A. I worked as an auditor with Ernst & Young, and then I worked as a financial controller and head of financial department of Uralkali. I also worked as finance vice president with National Container Company in Russia. And in 2014 I joined Rigmora Holdings as the CFO, and in 2019 I became CFO for Rigmora Holdings.

Q. Okay. Are you still CFO for Rigmora Holdings?

A. Yes, I am.

Q. And what are your main responsibilities as CFO of Rigmora Holdings?

A. As the CFO for Rigmora Holdings, I'm responsible for relationships with the banks, managing treasury payments, running payroll, preparing operational budgets for Rigmora offices. I'm also responsible for accounting and audit, for preparing financial forecasts.

Q. Are you aware of what ATP Life Science Ventures, L.P. is?

A. Yes, sure. It's a partnership we invested in biotech company in the U.S.

Q. If I refer to that as ATP or the fund, will you know what I mean?

A. Yes, sure.

Q. What are your responsibilities as CFO of Rigmora with respect to ATP?

A. Well, my main responsibility with regards to ATP is to process capital calls. That means arrange for the payments of the capital calls. I am also keeping records of all the capital calls paid and all the distributions received.

ATTORNEY DUTZ: Could you pull up JX 1237.

BY ATTORNEY DUTZ:

Q. Mr. Yakovlev, this is an email from March 2025 from William Engels. Are you familiar with this document?

A. Yes, I am.

Q. Could you please explain to the Court the context for this email.

A. So Mr. William Engels, CFO of ATP at that time, is sending me certain Excel files following my request. So these Excel files contain -- containing breakdown details for the amount of distributions, contributions, and other amounts we have seen in the capital statements and we asked to provide detailed breakdown for these amounts.

ATTORNEY DUTZ: Could you please pull up the spreadsheet marked JX 1237.004 in native.

Mr. Yakovlev, do you recognize this document?

A. Yeah. This is one of the Excel files.

Q. And what does this sheet "Pool V-4 Total" represent? Can you explain it to the Court.

A. This sheet, you can see all the capital calls on the left side and all the distributions on the right side attributed to the Pool

V-4. They are placed here in chronological order. And the last column, which is cut, you can see the portfolio company. That's it.

Q. And can this spreadsheet be used to calculate the total contributions and distributions to the pools of ATP?

A. Well, this Excel file contains different spreadsheets for each of the pools of the ATP fund.

If you sum up the column total, "Capital Calls" per each pool, you will get the total amount of capital contributed to ATP fund.

Q. And did you review this spreadsheet at the time you received it?

A. Yes. We reviewed the spreadsheet with respect to capital calls and distributions. We compared it to our records and we found no material discrepancies.

Q. Did you perform any analysis or try and reconcile the amounts of capital commitments in this document?

A. Well, we -- there is another tab called "Amendment Summary" with capital commitments. We took note of it, but capital commitment could not

be reconciled with actual financial data like capital call, the amounts paid or received. So I was focused on reconciling the amount of capital calls paid and distributions received.

Q. Do you know how much the Rigmora limited partners contributed to ATP by the end of the year 2024?

A. Yes. To the best of my memory, the amount contributed by Rigmora by the end of 2024 is around 2.65 million.

Q. And can you get to that amount of amount contributed to the fund with this document?

A. Yeah. That's absolutely possible. In this document there are tabs. Along with tabs called "Pool Total," there are tabs called pool -- number of the pool and then a label, Ezbon, Blue Horizon. Ezbon, Blue Horizon are the names of the entities that were initially invested in the fund from Rigmora side. And these tabs contain the data attributed just to these limited partners. So if you sum up the amounts on these tabs, you will get the amount invested by Rigmora's piece.

Q. Just to make sure the record is correct, I think I heard 2.65 million. What just is

the amount, performing the analysis you described, as of end of year 2024?

A. Correct. As the end of 2024, Rigmora piece invested about 2.65 billion.

Q. Are you familiar with Rigmora's payments of capital calls in the year 2025?

A. Yes, I am.

Q. How much has Rigmora paid in response to capital calls this year?

A. I believe Rigmora paid around 42 million of capital calls issued in 2025.

Q. Taking that into account, what is the total contribution that Rigmora limited partners have made to the fund as of today?

A. As of today, taking the contributions made in 2025, the total amount of capital contributed is about $2.69 billion.

Q. How much, approximately, have the Rigmora limited partners contributed to the fund since February 2022?

A. To the best of my knowledge, since February '22, it was about 700 million.

Q. I recall you mentioned earlier that managing Rigmora's relationship with the banks is one

of your responsibilities?

A. That is correct.

Q. Can you describe what banks Rigmora has worked with since February 2022?

A. Rigmora's working with many major banks. So we have a relationship with J.P. Morgan, for example, in the U.S. We have a relationship with Swiss banks like Julius Baer and Pictet, many others.

Q. Are those all current relationships?

A. Yes, these are continued relationships.

Q. As CFO of Rigmora, are you familiar with Rigmora's leverage, the amount of debt?

A. Yes, sure.

Q. What is Rigmora's current leverage, if any?

A. I would say that currently the leverage of Rigmora and affiliated group is below 5 percent.

Q. Has that number changed significantly in the years since February 2022?

A. Well, this number fluctuates from year-to-year, but historically the leverage of Rigmora group is a very low level. I don't remember it

exceeding 15 percent.

Q. Had Rigmora ever not paid a capital call for a portfolio company before May 30th of 2025?

A. To the best of my knowledge, Rigmora always paid the capital calls for portfolio companies.

Q. Are you familiar with the capital calls received by Rigmora on May 30th, 2025?

A. Yes, I am.

Q. How many portfolio companies did ATP call capital for?

A. I believe 10 portfolio companies.

Q. How many years have you been processing capital calls for ATP for?

A. At least from 2019, it was my direct responsibility to process the capital calls.

Q. In your five years of experience processing capital calls, had the general partner of ATP ever called capital for that many companies at one time?

A. No, never for that many companies at one day.

Q. Mr. Yakolev, are you aware of the financial condition of the Rigmora LPs?

A. Yes, sure.

Q. Sitting here today, as CFO of Rigmora, do the Rigmora LPs have the ability to pay the disputed capital calls?

A. Yes. Rigmora LPs and other entities of the trust have sufficiently good assets and cash to meet those capital calls.

ATTORNEY DUTZ: Thank you, Mr. Yakovlev. I pass the witness.

ATTORNEY SELDEN: Your Honor, as we are being handed prepared cross-examination binders for the witnesses, I will note that paragraph 25 of the pretrial order said that plaintiffs and defendants would split the trial time 50/50. I think defendants are currently about 50 minutes behind plaintiffs. We would like to complete our case-in-chief here in court today, if we can. We have one last witness to call that we had proposed to call by deposition. But in the interest of fairness and the pretrial order and us completing our case-in-chief, I would just note that time. I'm not objecting to cross per se, but I am concerned about the time.

THE COURT: You think it's important that you watch me watch the Finkelman video?

ATTORNEY SELDEN: I do not think it's

important that I watch you watch the video, Your Honor. I do think it's important, however, that defendants and plaintiffs have equal trial time available. We certainly gave a lot of thought yesterday to managing our cross-examination so that we would be able to complete within the time. Had I known, we might have taken more time with our cross-examinations. I do not object to this cross-examination. And I do not want you to watch video in court when you don't need to.

THE COURT: Great.

ATTORNEY SELDEN: But I do want to note that point for fairness.

THE COURT: Please proceed. No objection. Please proceed.

ATTORNEY REESE: Thank you. Jessica Reese with Quinn Emanuel.

CROSS-EXAMINATION

BY ATTORNEY REESE:

Q. Good afternoon.

A. Good afternoon.

Q. Now, you testified earlier today that your main responsibility with regard to ATP was to process capital calls; correct?

A. That's correct.

Q. And Rigmora received a capital call on June 24th, 2021, from ATP; correct?

A. Rigmora continually received capital calls from ATP, that's correct.

Q. Well, let's take a look at the June 24th, 2021, capital call, JX 0230.

Mr. Yakovlev, do you see that this is an email from Anna Batarina, and you are copied here on this email dated June 24th, 2021?

A. Yes, I see.

Q. And this capital call, it attaches a capital call; correct?

A. Correct.

Q. And could we please pull up that capital call, which is page 4.

This is, Mr. Yakovlev, Exhibit A to the capital call; correct?

A. Yeah, it's not actually the first page of the capital call, yeah, but an exhibit attached to it.

Q. And focusing your attention, do you see the line that says, "Total Pool V-3 Call"?

A. Yes, I see it now.

Q. And do you see on that row under the column "Unfunded Commitment Prior to Current Capital Call," the amount stated is $310,455,340; is that correct?

A. That's what is stated here.

Q. And to your knowledge, no one at Rigmora raised any deficiency with the amount stated here as the unfunded commitment to total Pool V-3; correct?

A. I'm not aware of that.

ATTORNEY REESE: No further questions. Thank you.

THE COURT: Thank you.

ATTORNEY DUTZ: No further questions, Your Honor.

THE COURT: All right. You may step down. Thank you.

(Witness excused.)

ATTORNEY SELDEN: Your Honor, our final remaining witness is Mr. Finkelman, who we would call by deposition and play the video. It would require us sealing the courtroom. I do not want to make you sit in the courtroom and watch that, if you would prefer not to. So I raise it because that would

be the last witness in our case-in-chief. I can describe the introduction that I would have provided to the video, but I welcome your Honor's guidance as to how you'd like us to proceed.

THE COURT: Look, make sure I have the video. Rather than have everybody leave and come in and tell everybody to go, I think it makes sense for me to take the video back and watch it in my office.

If you want to submit a letter with the instructions you would have given as a preamble to that, I'm happy to read it, and I will read it right before I watch the video, I promise. So why don't we do it that way.

ATTORNEY SELDEN: That works perfectly well. Thank you, Your Honor. I very much appreciate it.

With that, I believe defendants rest. That is our conclusion.

And I think we just have the extra housekeeping matters of those proposed trial briefing scheduling to address, Your Honor.

THE COURT: All right. Thank you.

So what's left to be accomplished, and have you conferred on it? And what do you propose we

do next?

ATTORNEY BERDON: Just for the record, we are not going to be calling any rebuttal witnesses. We just ask that Your Honor view the video counterparts that we've already identified.

THE COURT: Okay. Make sure -- it would be actually really helpful to me if whatever you have that I need to view is put on a flash drive, one flash drive between the two of you. Maybe give me three copies so everybody who needs to have it can have it and sent to my office Monday. That would be helpful.

ATTORNEY BERDON: Yes, Your Honor.

ATTORNEY BARLOW: Your Honor, I think the remaining housekeeping matter is how Your Honor preferred to resolve this issue, this case to get us to judgment, not withstanding the pending request for provisional liquidators.

My understanding of the current situation in Cayman is that while Rigmora requested in Cayman that the provisional liquidator application be heard at the end of this month, that was denied. They've been offered the opportunity to present November 3rd and November 4th.

And at that hearing where this was discussed as a scheduling matter, the Court said the following -- and I hope you don't mind me reading it, because I don't want to be accused of misquoting the Court.

THE COURT: No. It's good that you remind me what I said. So please go ahead.

ATTORNEY BARLOW: No, I'm sorry, reminding you what the Court in Cayman said, Your Honor.

THE COURT: Either way.

ATTORNEY BARLOW: The court in Cayman said depending on what the state of play in Delaware at the time is, and if it looks as if a judgment is going to be given within days, it may be that I would hold back and reserve my judgment in order to give the parties the opportunity to obtain that judgment and make any further submission.

So as we proceed towards a hearing on November 3rd and November 4th in the Cayman Islands, plaintiff would respectfully request a fairly aggressive schedule for the submission of post-trial briefings.

What we have proposed is the

submission of opening briefs on or around Wednesday of next week; that our friends would put in their answering brief Sunday; and that we would get a reply to you by Tuesday, October 28th. That's roughly five days, four days, and two days.

But obviously we're here to accommodate whatever schedule the Court would like. And so any guidance Your Honor might provide in that respect, we appreciate it.

THE COURT: Thank you.

Mr. Rohrbacher?

ATTORNEY SELDEN: I'll address the scheduling, Your Honor.

Your Honor, at this point in the Cayman proceedings, I believe that plaintiff's counsel there, Walkers, and our clients' counsel there, Campbells, are engaged in scheduling cooperatively and have worked together and that schedule is indeed proceeding in the Caymans.

As I had noted when we discussed it previously, it is a provisional hearing pending a full trial in January for a temporary relief. It is not a liquidation of the fund or its portfolio companies. It is oversight by someone independent, with the

benefit of the court and the benefit of Cayman law, such that funding contributed to the portfolio companies during the pendency of the case can stay there as a matter of Cayman law and isn't voided by statute in January.

That said, Your Honor, we again welcome the Court's guidance with respect to schedule.

I think the schedule that plaintiff has proposed is a little too tight. I would ask at least a week to oppose or to file our responding brief, which I think puts it on October 29th if they file on the 22nd. And then that, Your Honor, I will be frank with the Court and tell you that on October 29th I am in the Second Circuit almost all day and wouldn't be available.

THE COURT: You have a large team of attorneys. So I'm sure someone could be here.

ATTORNEY SELDEN: I have a terrific team and they are there. I am only raising that issue because the relevance of the Cayman proceeding on the 31st has nothing to do with the request I am making. It is purely driven by trying to juggle that schedule.

So we would ask at least a week, and I was going to ask, your Honor, that we submit our

opposing brief on October 30th. And if plaintiffs then want to reply on the 3rd, Your Honor will at least have the benefit of our two major opening briefs before the weekend and before the 3rd.

Again, whatever the Court would prefer with respect to this.

And I guess there is also the question of whether argument needs to be scheduled related to those post-trial briefs.

THE COURT: Mr. Barlow?

ATTORNEY BARLOW: I neglected to mention in my opening presentation, of course, we have a pending motion with respect to the status quo order with respect to the proceedings in Cayman which would, of course, allow the parties substantial time to present these issues because they wouldn't proceed in Cayman on those issues. I don't want to get past that.

So as we're looking for additional time. One way to resolve it might be some sort of agreement that the Cayman proceedings aren't going to proceed to judgment and there's not going to be any ruling requested in judgment until Your Honor has a chance to adjudicate the claims.

THE COURT: Thank you. So I understand what I want in an aggressive briefing schedule in light of what's happening in the Caymans, and so I'm inclined to give it to them. But if you want to confer and figure out whether there's a way to relieve that pressure through agreement or stipulation, I'm open to that.

So why don't you take a few days to confer and let me know on Monday whether you reach agreement. If not, plan to proceed at the breakneck pace that Mr. Barlow proposed.

ATTORNEY SELDEN: Your Honor, could I ask again. If we are going to proceed on a faster pace, could we have our opposition brief be due on the 28th of October rather than Sunday the 26th?

THE COURT: If you want that, then work hard to negotiate a situation that gives them a little more confidence that something in the Caymans isn't going to deprive their client of the ability to manage the funds.

ATTORNEY SELDEN: Your Honor, I don't -- for clarity of the record, I will say we have proposed a draft stipulation. I have asked for my counterparts' responses to that. We have not received

a response. We have worked hard to negotiate a standstill agreement that is typical here in Delaware that would maintain the status quo. While we have a control fight elsewhere subject to the jurisdiction of the Cayman court, I do not want you to think that we have not tried in some detail and at some length and with exchange of many drafts and many requests from me for responses that I have not received from my counterparts to enter a basic status quo order where we would get notice, for example, of the sale of a portfolio company or a sale of an interest of the funds.

I asked again Dr. Harrison at his deposition if he was engaged in that. He told me at his deposition on October 6th no, but on October 8th they produced a list of companies that he is contacting to sell assets.

This is a real concern for my clients. So I cannot agree, I'm afraid, that he continue without Court oversight in those proceedings, but I would very much like to enter a basic status quo order here in Delaware and to proceed with briefing in this very significant case where the issues before Your Honor are also warranting serious consideration and

detailed briefing on a schedule that gets those to you in an orderly way. That is all I'm asking for here.

ATTORNEY BERDON: Your Honor, I think our friends have vastly misrepresented the information that was provided on October 8th. It was a list of parties that had been contacted or had contacted us to discuss the potential for funding the portfolio in the event that there was a consensual resolution of this matter or a judgment in this matter. The representation that we disclosed a group of companies that we were discussing asset sales with has no basis in fact.

I can tell you that the reason why we have been unable to reach agreement with Rigmora with respect to a status quo order here in Delaware is because they have refused to represent in that order that they would not seek the very *ex parte* relief that we had disagreed on back on September the 19th.

In addition, they made a condition precedent to it that we surrender the financial control of the fund for all matters over $50,000 during the period in question.

And so it is not a lack of trying on ATP's part, Your Honor. And I think that the status

quo here that we're looking to maintain, we have no intention whatsoever of selling assets without giving ample notice and seeking Court approval of an asset sale. We have no interest in hiding the ball on that. But what we are looking for is the ability to litigate this matter through to judgment without PLs being appointed that would take control of the fund before this Court has the opportunity to rule or the defendants going to Cayman again seek*ing ex parte* relief to change the status quo.

So we are willing to continue talking, but the factual substrate that you just heard from the other side is something that we cannot agree with.

THE COURT: Thank you.

All right. So here's what we're going to do. I believe your reply on the status quo is coming in on Sunday night; is that correct?

ATTORNEY BARLOW: Yes, Your Honor.

THE COURT: I'm going to read it. I assume we're on the breakneck pace that Mr. Barlow proposed. That puts your opening brief next Wednesday; is that right?

ATTORNEY BARLOW: Yes, Your Honor.

THE COURT: So that's more harmful for

them in the interim than you all.

If I read the papers or determine that there are other reasons to relax the briefing schedule, I will.

Be on call on Monday. After I read the papers, I may get you on the phone for a hearing. I'd also like to know whether there have been any developments in your meetings to determine whether you can stipulate to a different schedule that's less extreme.

Look, I do my best to render these judgments quickly, but it's very, very hard for me personally to marshal this amount of evidence into a thoughtful and cogent factual set of findings on the pace that you've proposed.

What I heard Dr. Harrison say, that he felt the funds could limp along until the end of the year, in my mind, I thought that meant that I would have until through November to issue a post-trial decision that gave you all sufficient time to appeal. Now I'm hearing that events in the Caymans could eclipse my ability to do so in a meaningful way, which makes me a little concerned.

So I really hope that you all can

agree to a schedule that gives everyone time to do what they need, including me.

But is there anything else we can accomplish?

ATTORNEY BARLOW: No. We appreciate the accommodation of the Court and, as always, its staff.

THE COURT: All right. All right. Look -- you may sit down, Mr. Barlow -- we all worked very hard to get through this trial and I appreciate it. I know it hasn't been easy for anyone, not the witnesses, certainly not the attorneys, and certainly not the people who have been here assisting the attorneys. I'm grateful. Thank you.

I hope that you express the same gratitude to the court staff that you did in court earlier. Make sure to thank them on the way out. They work extremely hard to make these days happen. I wish you all safe travels. I hope you all enjoy Wilmington this evening and try to relax, if only for a few hours.

With that, we are adjourned. Thank you.

(Court adjourned at 4:54 p.m.)

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CERTIFICATE

We, DENNEL NIEZGODA, KAREN SIEDLECKI, KATHY CORTOPASSI and TINA ALFARO, Official Reporters for the Court of Chancery of the State of Delaware, do hereby certify that the foregoing pages numbered 290 through 490 contain a true and correct transcription of the proceedings as stenographically reported by us at the hearing in the above cause before the Chancellor of the State of Delaware, on the date therein indicated.

IN WITNESS WHEREOF we have hereunto set our hands at Wilmington, this 17th day of October, 2025.

/s/ Dennel Niezgoda
Official Court Reporter

/s/ Karen Siedlecki
Official Court Reporter

/s/ Kathy Cortopassi
Official Court Reporter

/s/ Tina Alfaro
Official Court Reporter

EXHIBIT F

APPLE TREE PARTNERS IV, L.P.

(A Cayman Islands Exempted Limited Partnership)

FIRST AMENDED AND RESTATED
LIMITED PARTNERSHIP AGREEMENT

IN MAKING AN INVESTMENT DECISION INVESTORS MUST RELY ON THEIR OWN EXAMINATION OF APPLE TREE PARTNERS IV, L.P. AND THE TERMS OF THE OFFERING, INCLUDING THE MERITS AND RISKS INVOLVED. THE LIMITED PARTNER INTERESTS REPRESENTED BY THIS FIRST AMENDED AND RESTATED LIMITED PARTNERSHIP AGREEMENT HAVE NOT BEEN RECOMMENDED BY ANY FEDERAL OR STATE SECURITIES COMMISSION OR REGULATORY AUTHORITY. FURTHERMORE, THE FOREGOING AUTHORITIES HAVE NOT CONFIRMED THE ACCURACY OR DETERMINED THE ADEQUACY OF THIS DOCUMENT. ANY REPRESENTATION TO THE CONTRARY IS A CRIMINAL OFFENSE.

THE LIMITED PARTNER INTERESTS REPRESENTED BY THIS FIRST AMENDED AND RESTATED LIMITED PARTNERSHIP AGREEMENT ARE SUBJECT TO RESTRICTIONS ON TRANSFERABILITY AND RESALE AND MAY NOT BE TRANSFERRED OR RESOLD EXCEPT AS PERMITTED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, AND THE APPLICABLE STATE SECURITIES LAWS, PURSUANT TO REGISTRATION OR EXEMPTION THEREFROM, AND, IN CERTAIN CASES, WITH THE APPROVAL OF THE GENERAL PARTNER. INVESTORS SHOULD BE AWARE THAT THEY MAY BE REQUIRED TO BEAR THE RISKS OF THIS INVESTMENT FOR AN INDEFINITE PERIOD OF TIME.

NON-U.S. RESIDENTS ONLY: NO ACTION HAS BEEN OR WILL BE TAKEN TO COMPLY WITH THE SECURITIES LAWS IN ANY JURISDICTION OUTSIDE THE UNITED STATES OF AMERICA THAT WOULD PERMIT AN OFFERING OF THE LIMITED PARTNER INTERESTS REPRESENTED BY THIS FIRST AMENDED AND RESTATED LIMITED PARTNERSHIP AGREEMENT, IN ANY COUNTRY OR JURISDICTION WHERE ACTION FOR THAT PURPOSE IS REQUIRED. IT IS THE RESPONSIBILITY OF ANY PERSON WISHING TO PURCHASE THE LIMITED PARTNER INTERESTS REPRESENTED BY THIS FIRST AMENDED AND RESTATED LIMITED PARTNERSHIP AGREEMENT TO SATISFY HIMSELF AS TO FULL OBSERVANCE OF THE LAWS OF ANY RELEVANT TERRITORY OUTSIDE THE UNITED STATES OF AMERICA IN CONNECTION WITH ANY SUCH PURCHASE, INCLUDING OBTAINING ANY REQUIRED GOVERNMENTAL OR OTHER CONSENTS OR OBSERVING ANY OTHER APPLICABLE FORMALITIES.

Joint Exhibit
JX-0001
C.A. No. 2025-0607-KSJM

APPLE TREE PARTNERS IV, L.P.
First Amended and Restated
Limited Partnership Agreement

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THIS FIRST AMENDED AND RESTATED LIMITED PARTNERSHIP AGREEMENT (as amended and/or restated from time to time, the "Agreement"), dated this 1st day of November, 2012, by and among ATP III GP, Ltd., a Cayman Islands exempted company, as general partner (in its capacity as a general partner of the Partnership, the "General Partner"); Daniel P. Finkelman, as the withdrawing limited partner ("Finkelman"); and the Persons (as defined in Paragraph 18(j)) whose Subscription Agreements (as defined in Paragraph 1(e)) with the Partnership (as defined below) and the General Partner dated the date hereof for the purchase of limited partner interests in the Partnership have been accepted and who have executed (directly or by power of attorney) a counterpart to this Agreement, as limited partners (the "First Closing Limited Partners"). The First Closing Limited Partners, any additional limited partners admitted to the Partnership after the date of this Agreement, and any substituted limited partners admitted to the Partnership after the date of this Agreement, each in its capacity as a limited partner of the Partnership, are sometimes referred to herein collectively as the "Limited Partners". The General Partner and the Limited Partners are sometimes referred to herein collectively as the "Partners".

PRELIMINARY STATEMENT

The General Partner and Finkelman formed Apple Tree Partners IV, L.P., a Cayman Islands exempted limited partnership (the "Partnership") by executing the Initial Exempted Limited Partnership Agreement of the Partnership, dated October 29, 2012 (the "Original Agreement"), and by registering the Partnership as an exempted limited partnership with the Registrar of Exempted Limited Partnerships under the laws of the Cayman Islands on October 29, 2012.

The First Closing Limited Partners desire to be admitted to the Partnership as limited partners.

The General Partner and the First Closing Limited Partners desire to amend the Original Agreement as hereinafter provided, and in consideration of the premises and the agreements herein contained and intending to be legally bound hereby, agree as follows:

A. Immediately following the admission to the Partnership of the First Closing Limited Partners, Finkelman shall hereby withdraw from the Partnership as a limited partner, his contribution to the Partnership's assets (if any) as a limited partner shall be returned and he shall have no further interest in or obligation to the Partnership.

B. On the date first above written, upon execution of a counterpart to this Agreement by or on behalf of such Persons, (i) ATP III GP, Ltd. hereby continues as general partner of the Partnership and (ii) the First Closing Limited Partners are hereby admitted to the Partnership as limited partners of the Partnership.

C. The Original Agreement is hereby amended and restated in its entirety to read as follows:

The Partners agree to carry on an exempted limited partnership subject to the terms of this Agreement in accordance with the provisions of the Exempted Limited Partnership Law (2012 Revision) of the Cayman Islands (as the case may be amended from time to time, the "ELP Law").

1. Firm Name; Registered Office; Purposes; Powers; Specific Authorization; Currency.

(a) Firm Name. The name of the Partnership is Apple Tree Partners IV, L.P.

(b) Registered Office. The initial address of the Partnership's registered office in the Cayman Islands is at the offices of Maples Corporate Services Limited, P.O. Box 309, Ugland House, Grand Cayman, KY1-1104, Cayman Islands. The General Partner may change the Partnership's registered office to any other address in the Cayman Islands from time to time without the consent of any other Person. The General Partner shall provide notice of such change (and of any change in the registered office of the General Partner in the Cayman Islands) to the Limited Partners.

(c) Purposes. The sole purpose of the Partnership is to invest, through one or more entities directly or indirectly owned by the Partnership (each such entity, an "Intermediary"), in equity securities issued by Apple Tree Consolidated, SPRL, a to-be-formed Belgium private limited liability company ("ATC"), whose equity securities shall be owned, directly or indirectly through an Intermediary, by the Partnership. The sole purpose of ATC shall be to invest in pharmaceutical,

medical device and other medically-related business projects. Subject to the two preceding sentences, the Partnership and ATC shall have such other purposes that are necessary, convenient or related to the foregoing. Each Intermediary and ATC shall be wholly-owned, except for a de minimis number of equity securities owned by third parties to avoid unlimited liability, to comply with directors' qualifying share requirements, and the like.

(d) Powers. Subject to the terms and provisions hereof, the Partnership shall have all the powers available to it as an exempted limited partnership under the laws of the Cayman Islands.

(e) Specific Authorization. Notwithstanding any other provision of this Agreement, without the consent of any Limited Partner or other Person being required, the Partnership is hereby authorized to execute, deliver and perform, and the General Partner on behalf of the Partnership is hereby authorized to execute and deliver, (i) a subscription agreement with each Limited Partner, or the equivalent thereof in the case of a Limited Partner who will not have a Contingent Subscription (as defined in Paragraph 5(a)), for the purchase of such Limited Partner's interest in the Partnership (each, a "Subscription Agreement") and (ii) any agreement, document or other instrument contemplated thereby or related thereto, and (subject to any approvals expressly required by any such agreement, document or instrument or by this Agreement) any amendments thereto, and any such actions heretofore taken by the General Partner are hereby ratified. The General Partner is hereby authorized to enter into the agreements, documents and instruments described in the preceding sentence on behalf of the Partnership, but such authorization shall not be deemed a restriction on the power of the General Partner to enter into other documents on behalf of the Partnership.

(f) Functional Currency. The functional currency of the Partnership is the United States dollar. All capital contributions and cash distributions shall be made in United States dollars, and the Partnership's income, gains, losses and expenses will be calculated and reported in United States dollars.

2. General Partner.

(a) Name; Address. The name and address of the General Partner are set forth in the List of Partners (as defined in Paragraph 16(b)). The List of Partners shall be revised by the General Partner from time to time, without the consent of any other Person, to reflect any change in the name or address of the General Partner.

(b) Control. The management, policies and control of the affairs, and the conduct of business, of the Partnership shall be vested exclusively in the General Partner. The General Partner and Apple Tree Venture Management, LLC (the "Management Company") shall, at all times prior to any removal of the General Partner as general partner of the Partnership pursuant to Paragraph 4(a), be owned exclusively by Dr. Seth L. Harrison ("Dr. Harrison").

(c) Management Agreement. The General Partner shall cause ATC to enter into a management agreement with the Management Company, in the form attached hereto as Schedule A (as amended from time to time, the "Management Agreement"). The Management Agreement shall not be terminated prior to the time set forth in Paragraph 5 thereof or amended, and none of its provisions shall be waived, in each case without the prior written consent of the holders of a majority of the Preferred Units (as defined in Paragraph 6(c)).

(d) Fees and Commissions. So long as the Management Agreement is in effect, any director's fees, consulting fees and other remuneration paid to the General Partner, the Management Company, Dr. Harrison, the members and employees of the Management Company or any of their respective affiliates in cash, securities or otherwise by an Intermediary, ATC or any direct or indirect subsidiary of ATC, including any Operating Company (as defined in Paragraph 2(l)) (a "Subsidiary"), shall only be received by them on behalf of the Management Company, shall be remitted to the Management Company and shall reduce the Management Fee as provided in the Management Agreement. Notwithstanding the foregoing, only the amount of net after tax profit attributable to fees or other remuneration received by Apple Tree Pharmaceuticals, Inc., a Delaware corporation ("ATPharma"), for services rendered to an Operating Company, rather than the gross amount thereof,

reduced by any ATPharma governance-related costs that are not borne by any such entity, shall be received by ATPharma on behalf of the Management Company, shall be remitted to the Management Company and shall reduce the Management Fee as provided in the Management Agreement; provided, however, that this sentence shall only apply if and to the extent that such fees or other remuneration were covered by a budget approved by the holders of a majority of the Preferred Units or the Board (as defined in Paragraph 2(n)); and provided further, however, that such net after tax profit shall be limited to the amount necessary to comply with applicable tax rules governing transfer pricing between related entities.

(e) Salaries. Without the prior written approval of the holders of a majority of the Preferred Units, while the Management Agreement is in effect, neither the General Partner, the Management Company, Dr. Harrison nor any of their respective affiliates shall receive fees, commissions, compensation or other remuneration from the Partnership, an Intermediary, ATC or any Subsidiary and the employees of the Management Company shall not receive fees, commissions, compensation or other remuneration from the Partnership, an Intermediary, ATC or any Subsidiary, in each case other than the Management Fee, fees or other remuneration paid to ATPharma as described in Paragraph 2(d) or with the prior written approval of the holders of a majority of the Preferred Units; provided, however, that the General Partner shall be entitled to an annual fee of US $500 from the Partnership.

(f) Cayman Islands Registration Statement. The General Partner has filed a registration statement pursuant to Section 9 of the ELP Law to register the Partnership as an exempted limited partnership (the "Registration Statement") and shall file any required amendments thereto.

(g) Standard of Care. It is recognized that decisions concerning investments or potential investments involve exercise of judgment and the risk of loss. To the fullest extent permitted by law, neither the General Partner nor any of its affiliates shall incur liability to the Partnership or any other Partner for any loss suffered by the Partnership or any other Partner which arises out of any such

investment or any other action or inaction on the part of the General Partner or any of its affiliates, provided that in any such case (i) the General Partner's or such affiliate's course of conduct was in good faith and (ii) such course of conduct did not constitute willful fraud, willful misconduct, gross negligence as determined under the laws of the State of Delaware without regard to otherwise governing principles of conflicts of law ("Gross Negligence") or an intentional and material breach of this Agreement on the part of the General Partner or such affiliate.

(h) Guarantees. The Partnership shall not guarantee or agree in any other manner to become liable with respect to any indebtedness or obligation of any other Person without the prior written consent of the holders of a majority of the Preferred Units.

(i) Borrowing. The Partnership shall not borrow money except with the prior written consent of the holders of a majority of the Preferred Units.

(j) U.S. Trade or Business. The General Partner shall use its reasonable best efforts to conduct the affairs of the Partnership and its subsidiaries so that no Foreign Limited Partner realizes income that is "effectively connected with the conduct of a trade or business within the United States" within the meaning of Sections 871, 882 or 897 of the U.S. Internal Revenue Code of 1986, as amended, and the rules and regulations thereunder (such Act, together with such rules and regulations, being referred to in this Agreement as the "Code"), solely by virtue of being a Limited Partner. Notwithstanding the foregoing, payments (or adjustments thereto) specifically provided for in this Agreement or the Management Agreement shall not be deemed to violate this undertaking. For purposes of this Agreement, the term "Foreign Limited Partner" shall mean any Limited Partner that (A) either (1) is a "nonresident alien" within the meaning of Section 7701(b)(1)(B) of the Code, a foreign corporation or partnership within the meaning of Section 7701(a)(5) of the Code, or a foreign trust or estate within the meaning of Section 7701(a)(31) of the Code, or (2) is treated as a partnership or flow-through entity for United States Federal income tax purposes and that has any partners, members or beneficiaries that would be a Foreign Limited Partner under clause (1) of this sentence if

they were Limited Partners and (B) has notified the General Partner of such status in the Subscription Agreement or transfer documentation pursuant to which it acquired its interest in the Partnership.

(k) Letter Agreement. Dr. Harrison shall, on the date first written above, execute and deliver to the holders of the Preferred Units a letter agreement in the form attached hereto as Schedule B (as amended from time to time, the "Letter Agreement").

(l) Co-investments. The General Partner shall not permit any Intermediary, ATC or any Subsidiary to purchase any Operating Company Securities (as defined below), debt, royalty arrangement or other economic interest issued by a prospective Operating Company in which the General Partner, the Management Company or any of their respective affiliates has a preexisting investment or is investing at the same time as ATC unless such purchase has been approved by the holders of a majority of the Preferred Units. Securities intended to achieve ATC's investment purpose are sometimes referred to herein as "Operating Company Securities". An entity in which ATC has a direct or indirect investment in Operating Company Securities is sometimes referred to herein as an "Operating Company". Except with the prior written consent of the holders of a majority of the Preferred Units, each Operating Company shall be wholly-owned, directly or indirectly, by ATC, except for a de minimis number of equity securities owned by third parties to avoid unlimited liability, to comply with directors' qualifying share requirements, and the like.

(m) Tax Classification. Except with the prior written consent of Ezbon International Limited ("Ezbon"), the General Partner shall (i) not cause or permit the Partnership to elect (A) to be excluded from the provisions of Subchapter K of the Code or (B) to be treated as a corporation for United States Federal income tax purposes; (ii) cause the Partnership to make any election reasonably necessary or appropriate in order to ensure the treatment of the Partnership as a partnership for United States Federal income tax purposes; (iii) cause the Partnership to file any required tax returns in a manner consistent with its treatment as a partnership for United States Federal income tax purposes; and (iv) not take any action that would be inconsistent with the treatment of the Partnership as a

partnership for such purposes. Except with the prior written consent of the holders of a majority of the Preferred Units, the Partnership shall use its best efforts to cause ATC to be treated as a corporation for United States Federal income tax purposes.

(n) ATC Board. The board of directors of ATC (the "Board") shall consist of five individuals, three of whom shall be appointed by the holders of a majority of the Preferred Units and two of whom shall be appointed by the General Partner; provided, however, that if the General Partner has been removed as general partner of the Partnership pursuant to Paragraph 4(a), the Board shall consist solely of three individuals appointed by the holders of a majority of the Preferred Units. Subject to the terms of this Agreement, the Board shall have the sole and exclusive authority, by majority vote of its members (including all members appointed by the holders of a majority of the Preferred Units), to approve investments by ATC in pharmaceutical, medical device and other medically-related projects and related activities (each, a "Project"), together with a budget for each Project (which may be for more than a single year and may include milestone-based payments), which Projects and budgets have been proposed by ATC's management. A description of the budgeting process to be undertaken by the Board is attached hereto as Schedule C. Without the approval of at least 80% of its members (including all members appointed by the holders of a majority of the Preferred Units), the Board shall not cause ATC to: (i) declare dividends or other distributions (except in accordance with a budget approved by the Board or as described below); (ii) effect any liquidation, dissolution or winding up of ATC; (iii) effect any consolidation or merger of ATC into or with any other entity or entities, or any sale or other disposition of a substantial portion of the assets of ATC; (iv) issue securities of ATC (other than to the Partnership or an Intermediary); (v) borrow or issue guarantees; or (vi) approve the transfer of any securities of ATC. The Board shall cause ATC to enter into an agreement with the General Partner for the day-to-day operations of ATC to be managed by the General Partner or its designee in a form approved in writing by the holders of a majority of the Preferred Units (the "Operating Agreement"); provided that no compensation shall be paid by ATC to

the General Partner or its designee, the Management Company, Dr. Harrison or their respective affiliates pursuant thereto. Notwithstanding the foregoing, the General Partner shall cause ATC to distribute promptly to the Partnership any amounts (including, without limitation, cash and publicly-traded securities) received by ATC from Subsidiaries (including, without limitation, Operating Companies) which remain after ATC has made or established appropriate reserves for paying its expenses, liabilities and other obligations (including investments in Projects pursuant to a budget approved by the Board). To the maximum extent practicable, ATC shall fund its operations (including investments in Projects) from capital contributions coming directly or indirectly from the Partnership, rather than through the recycling of ATC income or distributions (including distributions received from Subsidiaries, including, without limitation, the Operating Companies). The holders of a majority of the Preferred Units may, at their sole option at any time or times, require the General Partner to constitute boards of directors for any or all of the Intermediaries and Subsidiaries (including, without limitation, the Operating Companies) substantially on the same basis, and with the same authority, as the Board. In the absence of such a board being established for any Intermediary or Subsidiary (including, without limitation, any Operating Company), such Intermediary or Subsidiary (including, without limitation, any Operating Company) shall not take any action prohibited by clauses (i) through (vi) above (as if such clause referred to such Intermediary or Subsidiary (including, without limitation, any Operating Company) rather than ATC), except with the prior written consent of the holders of a majority of the Preferred Units or in accordance with a budget approved by the Board.

3. Limited Partners.

(a) Names; Addresses; Contingent Subscriptions. The names and addresses of the Limited Partners and their respective Contingent Subscriptions (if any) and numbers and classes of Units (as defined in Paragraph 6(c)) are set forth in the List of Partners. Except as otherwise provided in this Agreement, the Contingent Subscription of Dr. Harrison (together with his permitted transferees) shall at all times prior to a Removal Event be equal to 5.26315% of the sum of the

Contingent Subscriptions of the other holders of the Preferred Units. The List of Partners shall be revised by the General Partner from time to time, without the consent of any other Person, to reflect any change in the Contingent Subscription or number or class of Units of any Limited Partner, the withdrawal of any Limited Partner, the admission of any additional or substituted Limited Partner, the transfer of all or any part of the interest of any Limited Partner and any change in the name or address of any Limited Partner, provided such revision is, in each case, in accordance with the terms of this Agreement. The General Partner shall also maintain a Register of Partners, as required by the ELP Law.

(b) Limited Liability. No Limited Partner, in its capacity as such, shall be liable for the debts or obligations of the Partnership; provided that nothing in this sentence shall limit the liability of a Limited Partner (i) to make the capital contributions which it agreed to make to the Partnership pursuant to Paragraph 5, (ii) to return distributions that it is required to return to the Partnership pursuant to this Agreement or the ELP Law, or (iii) to pay any other amount that it is required to pay to the Partnership pursuant to this Agreement or its Subscription Agreement. None of the Limited Partners, in their capacity as such, shall take any part in the conduct of the business of the Partnership or have any power to sign for or to bind the Partnership.

(c) Additional Admissions. Subject to the provisions of this Agreement, including but not limited to Paragraphs 3(a) and 6(d), (e) and (f), the General Partner is authorized, but not obligated, to accept additional subscriptions from the Limited Partners, select and admit additional Limited Partners to the Partnership, and issue Incentive Common Units and Tracking Units (each as defined in Paragraph 6(c)) to the Limited Partners and additional Limited Partners. Each Limited Partner who is to make an additional subscription or receive additional Incentive Common Units or Tracking Units shall execute a Subscription Agreement (or the equivalent thereof) and each Person who is to be admitted as an additional Limited Partner shall execute a counterpart to this Agreement and, if such Person makes a subscription, a Subscription Agreement (or the equivalent thereof).

4. Removal of General Partner.

(a) Removal. Following the occurrence of a Removal Event (as defined in Paragraph 4(c)), the holders of a majority of the Preferred Units may, upon ten days' prior written notice to the General Partner, remove the General Partner as general partner of the Partnership and select a successor general partner. The successor general partner shall agree in writing to be bound by this Agreement and assume all of the obligations of the General Partner under this Agreement. The exculpation and indemnification of the General Partner pursuant to Paragraphs 2(g) and 15 shall survive for actions or omissions occurring prior to such removal (subject to the conditions described therein); the Management Agreement, the Letter Agreement and the Operating Agreement shall terminate (except that the Management Company shall continue to be entitled to receive the Management Fee for an additional 45 days and shall reimburse the Partnership to the extent (if any) that it was paid Management Fee for more than 45 days in advance); and the successor general partner shall file an amendment to the Registration Statement reflecting the change in the general partner of the Partnership.

(b) Substitution of Successor General Partner. The successor general partner shall be deemed admitted to the Partnership as general partner immediately upon the filing of the section 10 notice pursuant to the ELP Law in respect of such change of general partner.

(c) Removal Event. For purposes of this Paragraph 4, "Removal Event" means the occurrence of any of the following:

(i) The criminal conviction for a felony entered by a court of competent jurisdiction against Dr. Harrison in respect of, or in relation to, the Partnership's affairs;

(ii) Any act of willful fraud, willful misconduct or Gross Negligence by Dr. Harrison in respect of, or in relation to, the Partnership's affairs; or

(iii) Any violation by Dr. Harrison of his obligations under Section 4 of the Letter Agreement including, without limitation, upon his death or disability.

(d) Consequences of General Partner's Removal. If the General Partner is removed as general partner of the Partnership pursuant to Paragraph 4(a):

(i) The number of Founder Common Units (as defined in Paragraph 6(c)) held by Dr. Harrison (taken together with his permitted transferees) shall be reduced as follows:

(A) If such removal was the result of Dr. Harrison's death or disability, then such number of Founder Common Units shall be reduced by a fraction, not less than zero, the numerator of which is 60 minus the number of full calendar months beginning July, 2011 through and including the date of removal, and the denominator of which is 60, or

(B) In all other instances, such number of Founder Common Units shall be reduced by a fraction, not less than zero, the numerator of which is 120 minus the number of full calendar months beginning July, 2011 through and including the date of removal, and the denominator of which is 120;

Furthermore, if the General Partner is removed pursuant to Paragraph 4(a) as a result of (1) a Removal Event described in Paragraph 4(c)(i) or (2) willful and material fraud by Dr. Harrison within the context of Paragraph 4(c)(ii), as determined by a court of competent jurisdiction, then Ezbon shall have the option to purchase the remaining Founder Common Units held by Dr. Harrison (taken together with his heirs or legal representatives) at an aggregate price equal to $1. Such option may be exercised by Ezbon within 30 days following the removal date by written notice thereof by Ezbon to Dr. Harrison (or his heirs or legal representatives, as applicable), accompanied by payment in full of the purchase price therefor. The provisions of Paragraphs 12(a), (c) and (d) shall not apply in connection with any such sale of Founder Common Units to Ezbon.

(ii) At Dr. Harrison's election, his Contingent Subscription in respect of Preferred Units shall be reduced to the aggregate amount of capital contributions theretofore made by him to the Partnership in respect of such Preferred Units, in which case the number of his Preferred Units and Investment Common Units shall also be reduced by the same percentage by which Dr. Harrison's Contingent Subscription in respect of Preferred Units was reduced and future distributions in respect of Dr. Harrison's Preferred Units and Investment Common Units shall be adjusted to the extent necessary so that, as quickly as possible, aggregate distributions in respect of those Units, net of contributions, are what they would have been if Dr. Harrison had at all times held the reduced number of such Units. Such election right, and the consequences thereof, shall also apply to Dr. Harrison's heirs and legal representatives.

(iii) For the avoidance of doubt, the foregoing adjustments shall be applicable for purposes of determining Dr. Harrison's (and each of his heirs' and legal representatives') share of allocations and distributions only prospectively from the date of removal, and Dr. Harrison (and each of his heirs and legal representatives) shall not, as a result of this Paragraph 4(d), have any obligation (pursuant to Paragraph 15(e), or otherwise) to return to the Partnership or any Partner any distributions that Dr. Harrison (or such heirs and legal representatives) received prior to such date (but, for the further avoidance of doubt, this Paragraph 4(d)(iii) shall not relieve Dr. Harrison (or such heirs and legal representatives) of any obligation he (or they) would otherwise have under Paragraph 15(e) with respect to distributions made prior to the General Partner's removal).

(iv) So long as Dr. Harrison (taken together with his heirs and legal representatives) continues to own in the aggregate the greater of at least (Y) 50,000 Units (appropriately adjusted for any splits or combinations of, or dividends with respect to, Units occurring after the date of this Agreement or (Z) 20% of the Units owned by him (taken together with his heirs and legal representatives) following the Removal Event, after giving effect to all

adjustments (1) arising from such Removal Event (including, without limitation, adjustments pursuant to Paragraph 4(d)(i), (ii) and (vi)) and (2) pursuant to Paragraph 6(f)(i), neither the Partnership, any Intermediary, ATC nor any Subsidiary (including any Operating Company) shall enter into any transaction or agreement with Ezbon, Blue Horizon Enterprise Ltd. ("Blue Horizon") or any of their respective affiliates without the prior written consent of Dr. Harrison (or his heirs or legal representatives, if applicable); provided, however, that the Partnership may continue to issue additional Preferred Units and Investment Common Units to Ezbon, Blue Horizon or any of their respective affiliates, (i) at or above the purchase prices per Unit specified in Paragraph 6(d) and in the ratio of one Preferred Unit for each Investment Common Unit, for the purpose of financing the Partnership's operations or (ii) below the purchase prices per Unit specified in Paragraph 6(d) and in the ratio of one Preferred Unit for each Investment Common Unit, for the purpose of financing the Partnership's operations, provided that in the case of this clause (ii), (A) a third party investor who is not affiliated with either Ezbon or Blue Horizon and who is not a Limited Partner, but who comes within the definition of a "qualified purchaser" for purposes of the U.S. Investment Company Act of 1940, as amended, participates in such financing and purchase at least one-third of the Preferred Units and Investment Common Units sold in such financing and (B) the combined percentage ownership by Ezbon, Blue Horizon and their affiliates of Preferred Units and Investment Common Units immediately following such financing is less than their combined percentage ownership of such Units immediately prior to such financing. So long as Dr. Harrison (or his heirs or legal representatives) continues to own any Units, all such transactions or agreements with Ezbon, Blue Horizon or any of their respective affiliates shall be on "arms-length" terms or as otherwise approved by Dr. Harrison (or his heirs or legal representatives, if applicable).

(v) Dr. Harrison (or his heirs or legal representatives, if applicable) shall have a preemptive right, exercisable for a minimum period of 30 days and a maximum period of

60 days, to subscribe for his pro rata share of any additional Preferred Units and Investment Common Units offered by the Partnership (based on the percentage of the total number of outstanding Units of such class owned by Dr. Harrison (or his heirs or legal representatives)), on the most favorable terms and conditions offered to any third party (including, without limitation, Ezbon, Blue Horizon or their respective affiliates).

(vi) If the General Partner is removed pursuant to Paragraph 4(a) as a result of a Removal Event described in Paragraph 4(c)(ii) (other than for willful and material fraud as determined by a court of competent jurisdiction) or Paragraph 4(c)(iii), then Dr. Harrison (or his heirs or legal representatives) shall have the option to require Ezbon to purchase a percentage of his (or their) Preferred Units equal to the product of (A) the aggregate capital called in respect of such Preferred Units divided by the aggregate Contingent Subscriptions of his (or their) Preferred Units and (B) the quotient of (1) the aggregate capital contributed or deemed contributed (to the extent such deemed contributions reduced the Management Fee) in respect of such Preferred Units, reduced by the then balance due under the Loan Arrangement divided by (2) the aggregate capital contributed or deemed contributed (to the extent such deemed contributions reduced the Management Fee) in respect of such Preferred Units. The purchase price for such Preferred Units shall be an amount equal to the sum of the capital contributions made or deemed made (to the extent such deemed contributions reduced the Management Fee) in respect of such Preferred Units, reduced by (x) amounts then outstanding under the Loan Arrangement and (y) distributions to Dr. Harrison (or his heirs or legal representatives), in each case in respect of such Preferred Units. Such option may be exercised by Dr. Harrison (or his heirs or legal representatives) within 30 days following the removal date by written notice thereof by Dr. Harrison (or his heirs or legal representatives) to Ezbon. If Dr. Harrison (or his heirs or legal representatives) elects to exercise such option, Ezbon shall purchase such Preferred Units by payment of the purchase price therefor in four equal installments, with the first installment due within ten days following the date of

exercise and each subsequent installment due on the three-month anniversary of the due date for the prior installment; provided, however, that the entire amount shall be payable in full within ten days following the date of exercise if the aggregate purchase price does not exceed US $10 million. The provisions of Paragraphs 12(a), (c) and (d) shall not apply in connection with any such sale of Preferred Units to Ezbon. In the event of a sale of Preferred Units pursuant to this clause (vi), the provisions of Section 3 of Part A to Schedule D hereto shall no longer apply to any remaining Preferred Units owned by Dr. Harrison (or his heirs or legal representatives). In no event shall a sale of Preferred Units pursuant to this clause (vi) insulate the General Partner from any claim against it for willful misconduct or gross negligence giving rise to such removal.

5. Capital of the Partnership.

(a) Capital Contributions; General.

(i) Subject to the terms of this Agreement, each of the Partners shall contribute to the capital of the Partnership, in such installments as the General Partner may request, an amount equal to, but not in excess of, the total amount (if any) set forth opposite such Partner's name under the column marked "Contingent Subscription" in the List of Partners (the "Contingent Subscription"). A Partner may not make less than the full amount of any required capital contribution.

(ii) Unless otherwise approved by the holders of a majority of the Preferred Units in writing, the General Partner may only call capital, as of any time, in amounts sufficient to enable the Partnership, the Intermediaries and ATC, as applicable, to (A) pay Partnership and Intermediary expenses then existing or reasonably anticipated to be incurred within the next six-month period, (B) pay other Partnership and Intermediary non-discretionary items (such as taxes and tax distributions by the Partnership) and satisfy other Partnership and Intermediary expenses and obligations incurred in the ordinary course of business and (C) make capital contributions (directly or indirectly through one or more Intermediaries) to ATC to allow ATC to (I) pay the

Management Fee for the next 12-month period and other ATC expenses then existing or reasonably anticipated to be incurred within the next six-month period, (II) invest in Projects approved by the Board in accordance with a Board-approved budget therefor and (III) pay ATC non-discretionary items (such as taxes) and satisfy other ATC expenses and obligations incurred in the ordinary course of business. Notwithstanding the foregoing, unless otherwise approved by the holders of a majority of the Preferred Units in writing or the Board, (X) capital calls in respect of Partnership, Intermediary and ATC expenses and obligations incurred in the ordinary course of business for legal, audit, accounting and tax services, insurance, business development (including the identification, investigation and evaluation of prospective Projects), and other general and administrative matters (other than the Management Fee) shall be limited to the amount therefor set forth in a budget presented by the General Partner and approved by the holders of a majority of the Preferred Units in writing or the Board, whose approval shall not be unreasonably withheld or delayed, (Y) capital calls in respect of all indemnification obligations pursuant to Paragraph 15 shall not exceed in the aggregate the greater of (1) 20% of the Partnership's contributed capital or (2) $50 million, and (Z) in the case of a capital call pursuant to clause (C) of the preceding sentence that is made on a basis accelerated from that set forth in a Board-approved budget, the General Partner (1) represents in writing to the Partners that it has a good faith belief that the Project (or portion thereof covered by such budget) will be completed within the aggregate amount budgeted therefor and (2) provided the Board with a reasonably detailed and diligenced presentation supporting such representation; provided, however, that no approval by the holders of Preferred Units or the Board shall be required with respect to organizational expenses of the Partnership and its related entities.

(iii) Not less than ten business days' prior written notice shall be given to each Partner by the General Partner as to the date for each capital contribution. The amount of capital required to be contributed by each Partner on each occasion of a capital contribution shall

be computed by the General Partner so that each Partner contributes that portion of the aggregate capital contribution to be made by all Partners at such time which such Partner's Contingent Subscription bears to the total Contingent Subscriptions of all Partners, or in such other proportions as may be determined by the General Partner with the prior written consent of the holders of a majority of the Preferred Units. All capital contributions shall be made in cash.

(iv) The General Partner may at any time, with the prior written consent of Ezbon, reduce on a pro rata basis or terminate, in their entirety, the outstanding commitments of the Partners to make further capital contributions to the Partnership, in which instance the obligation of the Partners to contribute additional capital to the Partnership shall be so reduced or terminated, as applicable, the number of Units held by each Partner shall be adjusted on an equitable basis and the List of Partners shall be revised to reflect such occurrence. A portion of the capital contributions to be made by Dr. Harrison shall be financed by Ezbon, and repaid to Ezbon by Dr. Harrison, as described in Schedule D attached hereto.

(b) Anti-Money Laundering. Each capital contribution made by a Limited Partner shall constitute a representation and warranty by such Limited Partner that, to such Limited Partner's knowledge:

(i) None of the cash that such Limited Partner has contributed or is contributing to the Partnership has been derived from, or related to, any activity that is deemed criminal under United States or Cayman Islands law; and

(ii) No contribution by such Limited Partner to the Partnership shall cause the Partnership, the Management Company, the General Partner or any of their directors, officers or employees to be in violation of the United States Bank Secrecy Act, the United States Money Laundering Control Act of 1986, the United States International Money Laundering Abatement and Anti-Terrorist Financing Act of 2001, the Proceeds of Crime Law 2008, the Terrorism Law (2009 Revision) or the Money Laundering Regulations (2011 Revision), in each case, such statute

as amended to date and any successor statute thereto and including all regulations promulgated thereunder (the "Anti-Money Laundering Laws").

Each Limited Partner shall promptly notify the General Partner if it becomes aware that such Limited Partner has made a contribution to the Partnership of money derived from, or related to, any activity that is deemed criminal under United States or Cayman Islands law or that could cause the Partnership, the Management Company, the General Partner or any of their directors, officers or employees to be in violation of the Anti-Money Laundering Laws. Each Limited Partner shall use commercially reasonable efforts to provide promptly to the General Partner any additional information regarding such Limited Partner or its beneficial owners that the General Partner reasonably deems necessary or advisable to determine or ensure compliance with all applicable laws concerning money laundering and similar activities. Each Limited Partner acknowledges that if at any time it is discovered that such Limited Partner has made a contribution to the Partnership of money derived from, or related to, any activity that is deemed criminal under United States or Cayman Islands law or that could cause the Partnership, the Management Company, the General Partner or any of their directors, officers or employees to be in violation of the Anti-Money Laundering Laws, any of such Limited Partner's foregoing representations and warranties is incorrect, or if otherwise required by applicable law or regulation related to money laundering and similar activities, the General Partner may undertake appropriate actions to ensure compliance with such applicable law or regulation. Actions that may be taken by the General Partner in the circumstances described in the previous sentence include, but are not limited to, the following:

(x) The General Partner, upon delivery of notice to that effect to the affected Limited Partner, may "freeze" such Limited Partner's interest in the Partnership and, in that event: (A) shall not permit the Partnership to accept any additional capital contributions from such Limited Partner so long as the interest is frozen; (B) shall not request any additional capital contributions from such Limited Partner so long as the interest is frozen; (C) shall not permit the Partnership to

allocate any items of Partnership income or gain to such Limited Partner's Capital Account with respect to any fiscal period commencing on or after the date of delivery of such notice and for so long as the interest is frozen (although the General Partner may cause the Partnership to continue to allocate items of loss or expense to such Limited Partner's Capital Account to the same extent as if, with respect to such Limited Partner and through the date of the Partnership's final liquidating distribution, such Limited Partner had timely made all required capital contributions with respect to its Contingent Subscription); and/or

(D) shall not permit the Partnership to make any distributions to such Limited Partner in respect of its frozen interest after the delivery of such notice and for so long as the interest is frozen, other than liquidating distributions pursuant to Paragraph 11 in an amount equal to the positive balance in its Capital Account, after payment to each other Partner of its final liquidating distribution in accordance with Paragraph 11 and subject in all events to compliance with applicable law.

(y) In the alternative, the General Partner may cause the Partnership to redeem such Limited Partner's interest using Partnership funds at a price equal to the lesser of (A) the aggregate amount of capital contributions theretofore made by such Limited Partner, net of amounts previously distributed to such Limited Partner, (B) the positive balance in the Capital Account of such Limited Partner, or (C) the fair market value of such interest (as determined by the General Partner); provided, however, that the General Partner shall cause the Partnership to redeem such Limited Partner's interest at such price if required by law, regulation or government order.

Each Limited Partner further understands that the Partnership or General Partner may release

confidential information about such Limited Partner and, if applicable, any of its underlying beneficial owners, to proper authorities if the General Partner, in its reasonable discretion, determines that it is required or otherwise in the best interests of the Partnership in light of the Anti-Money Laundering Laws or any other applicable laws concerning money laundering and similar activities. Each Limited Partner acknowledges and agrees that the General Partner, without the consent of any Limited Partner and notwithstanding any other provision of this Agreement, may amend any provision of this Agreement in order to effectuate the intent of this Paragraph 5(b) and ensure compliance with the Anti-Money Laundering Laws or any other applicable laws concerning money laundering and similar activities.

(c) Defaults on Contributions. If a Limited Partner does not make a capital contribution required by this Paragraph 5 when due (or within five business days thereafter), interest will accrue on the outstanding balance of such unpaid capital contribution at a rate per annum equal to the lesser of (i) the prime rate (as published in The Wall Street Journal) plus 6% or (ii) the maximum rate permitted by law (the "Default Rate"), from and including the date the capital contribution was due until the earlier of the date of payment of such capital contribution by such Limited Partner (or a transferee) or such time, if any, as the General Partner imposes a Default Charge (as defined below).

If such Limited Partner fails to pay any such amount when due but pays such amount (together with any accrued interest thereon) prior to the time it becomes a Defaulting Partner (as defined below), the General Partner shall reflect in the records of the Partnership the amount paid by such Partner, with such amount treated as payment first of accrued interest to the extent thereof; provided, however, that no such payment of interest shall reduce the amount to be contributed to the Partnership by such Partner with respect to its Contingent Subscription.

A Limited Partner that has failed to make a payment in satisfaction of its Contingent Subscription (together with any accrued interest thereon) pursuant to this Paragraph 5 by the close of business on the date that is five business days after the relevant due date and has also failed to make such payment on or before the date that is 30 days after the General Partner has delivered, by certified or

registered mail or by nationally or internationally recognized "overnight" courier service, a notice (a "Default Notice") informing such Limited Partner of its failure to make such payment and notifying such Limited Partner that such Limited Partner will be considered a Defaulting Partner if payment is not received within such 30-day period, shall be deemed to be a "Defaulting Partner." The General Partner, in its sole discretion, may determine whether or not, or when, to deliver a Default Notice with respect to any Limited Partner that has failed to timely make a required payment pursuant to this Paragraph 5.

If a Limited Partner becomes a Defaulting Partner, the General Partner may, in its sole discretion, pursue one or more of the following alternatives:

(i) impose a Default Charge upon the Defaulting Partner;

(ii) assist the Defaulting Partner in selling its Preferred Units and Investment Common Units, with the full assumption by the buyer of the Defaulting Partner's Contingent Subscription, including any portion then due and unpaid;

(iii) accept a late contribution from the Defaulting Partner, with interest, in satisfaction of its then-outstanding obligation to contribute hereunder, if the General Partner determines in its sole discretion that such a late contribution will not jeopardize the activities and operations of the Partnership; or

(iv) pursue and enforce all of the Partnership's other rights and remedies against the Defaulting Partner under this Agreement, the relevant Subscription Agreement and Cayman Islands law, including, but not limited to, the commencement of a lawsuit to collect the unpaid capital contribution, interest and costs, and reimbursement of any other damages suffered by the Partnership (with interest on any such costs or other damages that are reimbursed).

If a Defaulting Partner's Preferred Units and Investment Common Units are sold in their entirety pursuant to (ii) above, or if the General Partner exercises its sole discretion to accept a late contribution pursuant to (iii) above, the General Partner shall not impose a Default Charge pursuant to (i) above. Otherwise, all such remedies, including the aforesaid damages provisions, shall be cumulative, and the

use by the General Partner of one or more of them against a Defaulting Partner shall not preclude the use of any other such remedy.

The Partners agree that the damages suffered by the Partnership as the result of any failure by a Limited Partner to timely make a capital contribution or other payment to the Partnership that is required by this Agreement cannot be estimated with reasonable accuracy. To the maximum extent permitted by law, in connection with such failure (which remedy each Partner agrees is reasonable) and subject to the preceding paragraph of this Paragraph 5(c), the General Partner may cause such Defaulting Partner's number of Preferred Units and Investment Common Units to be reduced by up to 50% of such Defaulting Partner's corresponding number of Units of such class immediately prior to becoming a Defaulting Partner, which Units shall be allocated to the non-defaulting holders of Preferred Units in proportion to their respective number of Preferred Units (the "Default Charge"); provided, however, that if a Defaulting Partner (or any transferee(s) then holding the Defaulting Partner's interest) subsequently contributes the amount in arrears during such period, then in the sole discretion of the General Partner, the number of Preferred Units and Investment Common Units of the Partners (and the sharing of distributions among such Partners) shall be adjusted so that the Partners hold the same number of Units and receive the same of distributions as if such Defaulting Partner (together with such transferee(s), if any) had made all contributions with respect to such Defaulting Partner's interest on a timely basis.

The application of the aforesaid remedies and other damages provisions with respect to any Defaulting Partner shall not relieve such Defaulting Partner of his obligation to make (i) the capital contribution which resulted in the application of the aforesaid remedies and other damages provisions because of the failure of the Defaulting Partner to pay such capital contribution and (ii) all subsequent required capital contributions when due, or relieve such Defaulting Partner from designation as a Defaulting Partner and application of the aforesaid remedies and other damages provisions as to any such subsequent required capital contribution if he defaults with respect thereto. However, for the avoidance of doubt, the General Partner may not impose multiple Default Charges upon a Defaulting Partner with

respect to a single required capital contribution.

In connection with the application of the Default Charge, the General Partner may make such adjustments to the manner in which Capital Accounts are determined and distributions are made to the Defaulting Partner and the Partners to which the portions of the Defaulting Partner's Units are reallocated in accordance with this Paragraph 5(c) as the General Partner reasonably determines are necessary or appropriate in order to reflect the application and the intention of the Default Charge. Without limiting the generality of the foregoing, the General Partner, in its sole discretion, may elect to retain any distributions that any Defaulting Partner would otherwise be entitled to receive pursuant to this Agreement (taking into account the effect of the imposition of any remedies and other damages provisions that have been applied) for use for any Partnership purpose, including for the purpose of applying such withheld amounts, first to any costs of collection incurred by the Partnership with respect to such Defaulting Partner's unpaid capital contributions and second, as payment of such Defaulting Partner's capital contributions that are due but unpaid (and interest thereon) in chronological order starting with the capital contribution that has been unpaid for the longest period. In the case of a distribution in kind, if the General Partner elects to withhold such distribution for application against such Defaulting Partner's unpaid capital contribution, the Partnership shall withhold securities otherwise distributable to the applicable Defaulting Partner and cause such securities to be sold for and on behalf of such Defaulting Partner (and such Defaulting Partner hereby irrevocably appoints the General Partner (with full power of substitution) as his agent and attorney in fact for purposes of effecting such sale) and remit the net proceeds of such sale to the Partnership for application as provided in this paragraph. Each Defaulting Partner with respect to which distributions are authorized to be withheld in accordance with this Paragraph 5(c) agrees to execute such other documents as the General Partner may reasonably request in order to effect the purposes of such withholding and the sale of any withheld securities on behalf and in the name of such Defaulting Partner. For purposes of maintaining such Defaulting Partner's Capital Account and all other purposes under this Agreement, such Defaulting Partner shall be deemed to have

received, at the time the distribution would otherwise have been made to such Defaulting Partner, any distribution that was withheld by the Partnership for application against such Defaulting Partner's unpaid capital contribution obligations and, in the case of a distribution in kind that was withheld, to have sold the withheld securities outside of the Partnership so that the Capital Accounts of, and economic arrangements among, the other Partners are not affected by the withholding of any such distribution. The value of any remaining withheld distributions that have not been applied to the Defaulting Partner's unpaid capital contribution obligations may be retained by the Partnership in cash or in kind, until the winding up of the Partnership, provided that the Partnership shall not be liable to such Defaulting Partner for any reduction in the value of any securities retained in kind and the Defaulting Partner shall not be entitled to the benefit of any appreciation in such retained securities.

6. Accounts; Units.

(a) Capital Accounts. There shall be established on the books of the Partnership a capital account ("Capital Account") for each Partner which shall consist of such Partner's initial capital contribution (if any) to the Partnership made pursuant to Paragraph 5, (i) increased by (A) any additional capital contributions by such Partner to the Partnership made pursuant to Paragraph 5 and (B) any amounts from time to time credited to the Capital Account of such Partner pursuant to Paragraph 7, (ii) decreased by (A) any distributions to such Partner and (B) any amounts from time to time charged to the Capital Account of such Partner pursuant to Paragraph 7, and (iii) adjusted pursuant to Paragraph 5(c).

(b) Distributions in Kind. For purposes of maintaining and determining Capital Accounts, all property distributed in kind by the Partnership to a Partner shall be charged to that Partner's Capital Account at the fair market value of such property on the date of distribution.

(c) Authorized Units. The Partnership is authorized to issue five classes of Limited Partner units (collectively, the "Units"), consisting of the following:

(i) up to 900,000 preferred units (the "Preferred Units"),

(ii) up to 900,000 investment common units (the "Investment Common Units"),

(iii) up to 225,000 founder units (the "Founder Common Units"),

(iv) up to 158,823 incentive common units (the "Incentive Common Units"), and

(v) tracking units with respect to any Project ("Tracking Units"), which shall not represent in the aggregate more than 5% of the Partnership's cumulative direct and indirect profits in such Project since its inception, and which "track" the profits (determined in accordance with GAAP, as defined in Paragraph 16(f)) of a particular Project.

(d) Purchase Price for Units. The purchase price for each Preferred Unit shall be US $1,666.66, to be contributed from time to time as described in Paragraph 5(a). The purchase price for each Investment Common Unit, Founder Common Unit, Incentive Common Unit and Tracking Unit (which may be US $0.00 in each case) shall be determined by the General Partner. Each Partner's Contingent Subscription shall be equal to the sum of the original issue purchase prices for its Units.

(e) Issuance of Units. On the date of this Agreement, (i) 436,050 Preferred Units and 436,050 Investment Common Units are being issued to Ezbon (ii) 418,950 Preferred Units and 418,950 Investment Common Units are being issued to Blue Horizon, and (iii) 45,000 Preferred Units, 45,000 Investment Common Units and 225,000 Founder Common Units are being issued to Dr. Harrison. Incentive Common Units and Tracking Units shall be issued from time to time as determined by the General Partner, in each case, subject to a vesting schedule as determined by the General Partner. Incentive Common Units shall only be issued to Persons providing bona fide services to ATPharma and Tracking Units in respect of a Project shall only be issued to Persons providing bona fide services directly related to the corresponding Project. No Incentive Common Units or Tracking

Units shall be issued to the General Partner, the Management Company, Dr. Harrison or their respective affiliates without the prior written approval of the holders of a majority of the Preferred Units. If any outstanding Preferred Units or Investment Common Units are redeemed by the Partnership or otherwise cancelled, they may only be reissued by action of the General Partner with the prior written consent of the holders of a majority of the Preferred Units.

(f) Reduction of Authorized and Issued Founder Common Units and Incentive Common Units. The number of authorized Founder Common Units and Incentive Common Units shall be automatically reduced (and each Partner's number of Founder Common Units and Incentive Common Units outstanding as of any date on which the number of authorized Founder Common Units or Incentive Common Units are reduced shall be reduced by the same percentage by which the authorized number of Units of the corresponding class were reduced as of such date), based on the amount of capital contributed to the Partnership in respect of the Preferred Units, as follows:

(i) Founder Common Units: reduced to 100,000 at such time as US $300 million has been contributed to the Partnership in respect of the Preferred Units, with such reduction beginning after US $100 million has been so contributed and calculated so that the quotient of the number of authorized Founder Common Units divided by the sum of the number of authorized Founder Common Units and outstanding Investment Common Units is reduced, on a straight-line basis (calculated in $10 million increments), from 20% to 10%, and

(ii) Incentive Common Units: reduced to 47,368 at such time as US $1 billion has been contributed to the Partnership in respect of the Preferred Units, with such reduction beginning after US $100 million has been so contributed and calculated so that the quotient of the number of authorized Incentive Common Units divided by the sum of the number of authorized Incentive Common Units and outstanding Investment Common Units is reduced, on a straight-line basis (calculated in $10 million increments), from 15% to 5%.

An example of how such authorized (and, similarly, issued and outstanding) Founder Common Units and

Incentive Common Units shall be reduced, and the manner in which distributions are apportioned pursuant to Paragraph 8(d)(ii), is attached hereto as Schedule E.

7. Allocations.

(a) Allocations Generally. Except as otherwise provided in this Agreement, the Profit or Loss (as defined in Paragraph 7(b)) for each fiscal quarter shall be allocated among the Partners in a manner that as closely as possible gives economic effect to the provisions of Paragraphs 5 and 8 and the other provisions of this Agreement, as determined in the reasonable discretion of the General Partner.

(b) Definitions. For purposes of this Agreement:

(i) "Carrying Value" shall mean, with respect to each Partnership asset, the asset's adjusted basis for United States Federal income tax purposes, adjusted to equal its fair market value, as determined by the General Partner, in accordance with the rules set forth in U.S. Treasury Regulations Section 1.704-1(b)(2)(iv)(f), except as otherwise provided herein, immediately prior to: (a) the date of the acquisition of any additional Partnership interest by any new or existing Partner in exchange for more than a de minimis capital contribution; (b) the date of the distribution of more than a de minimis amount of Partnership property (other than a pro rata distribution) to a Partner; or (c) such other dates as specified in U.S. Treasury Regulations under Section 704 of the Code; provided that adjustments pursuant to clauses (a), (b) or (c) above shall be made only if the General Partner determines in its sole discretion that such adjustments are necessary or appropriate to reflect the relative economic interests of the Partners. The Carrying Value of any Partnership asset distributed to any Partner shall be adjusted immediately prior to such distribution to equal its fair market value. In the case of any asset that has a Carrying Value that differs from its adjusted basis, Carrying Value shall be adjusted by the amount of depreciation calculated for purposes of the definition of "Profit" or "Loss" rather than the amount of depreciation determined for United States Federal income tax purposes.

(ii) "Profit" or "Loss" for each fiscal quarter means the sum of the taxable income or loss of the Partnership, or particular items thereof, determined in accordance with the accounting method used by the Partnership for United States Federal income tax purposes, with the following adjustments: (a) all items of income, gain, loss or deduction allocated pursuant to Paragraph 7(c) shall not be taken into account in computing such taxable income or loss; (b) any income of the Partnership that is exempt from United States Federal income taxation and not otherwise taken into account in computing Profit or Loss shall be added to such taxable income or loss; (c) if the Carrying Value of any asset differs from its adjusted tax basis for United States Federal income tax purposes, any gain or loss resulting from a disposition of such asset shall be calculated with reference to such Carrying Value; (d) upon an adjustment to the Carrying Value of any asset (other than an adjustment in respect of depreciation), pursuant to the definition of Carrying Value, the amount of the adjustment shall be included as gain or loss in computing such taxable income or loss; (e) if the Carrying Value of any asset differs from its adjusted tax basis for United States Federal income tax purposes, the amount of depreciation, amortization or cost recovery deductions with respect to such asset shall for purposes of determining Profit or Loss be an amount which bears the same ratio to such Carrying Value as the United States Federal income tax depreciation, amortization or other cost recovery deduction bears to such adjusted tax basis (provided, that if the United States Federal income tax depreciation, amortization or other cost recovery deduction is zero, the General Partner may use any reasonable method for purposes of determining depreciation, amortization or other cost recovery deduction in calculating Profit or Loss); and (f) except for items in (a) above, any expenditures of the Partnership not deductible in computing taxable income or loss, not properly capitalizable and not otherwise taken into account in computing Profit or Loss pursuant to this definition shall be treated as deductible items.

(c) Regulatory Provisions. The following provisions of this Paragraph 7(c) are included in order to comply with United States Federal income tax laws and regulations. For purposes

of making allocations of Profit or Loss, if the Capital Account of any Limited Partner would be reduced below zero (or if an existing deficit in such Limited Partner's Capital Account would be increased) as a result of the allocation to it of any Loss, then such Loss shall first be allocated to such Limited Partner until such Limited Partner's Capital Account is reduced to zero; the remaining portion of such Loss shall be allocated to the remaining Partners in accordance with Paragraph 7(a) until the Capital Account of each remaining Limited Partner is reduced to zero; and any remaining portion of such Loss shall be allocated to the General Partner. In determining whether an allocation for a fiscal quarter would cause any Limited Partner's Capital Account to become negative or would add to an existing deficit in such Limited Partner's Capital Account for purposes of the preceding limitation, the following allocations and distributions shall be taken into account in determining such Limited Partner's Capital Account balance:

(i) allocations of loss and deduction that, as of the end of such quarter, reasonably are expected to be made to such Limited Partner pursuant to Section 704(e)(2) of the Code (relating to allocations to a donee of a partnership interest), Section 706(d) of the Code (relating to allocations required in the case of a shift in a partner's interest in a partnership during a taxable year) and Treasury Regulation §1.751-1(b)(2)(ii) (relating to shifts in partners' interests in the inventory and unrealized receivables of a partnership, as those terms are defined in Section 751 of the Code, attributable to distributions from a partnership); and

(ii) distributions that, as of the end of such quarter, reasonably are expected to be made to such Limited Partner to the extent they exceed offsetting increases to such Limited Partner's Capital Account that reasonably are expected to occur during (or prior to) the Partnership fiscal quarters in which such distributions reasonably are expected to be made.

If any Limited Partner receives an allocation or distribution described in the preceding sentence which is not reasonably expected to occur, but which causes or increases a negative balance in such Limited Partner's Capital Account, such Limited Partner shall be allocated items of Partnership

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income and gain in an amount and manner sufficient to eliminate such negative balance as quickly as possible. If any special allocation is made pursuant to the preceding sentence, subsequent allocations of loss, expenses or deductions shall be made to such Limited Partner so as to reverse the effect of such special allocation; provided, however, that no allocation of loss, expenses or deductions shall be made pursuant to this sentence which would cause such Limited Partner's Capital Account to become negative. The General Partner shall determine, in consultation with the Partnership's independent public accountants or auditors, whether any allocations or distributions described in this Paragraph 7(c) reasonably are expected to be made and the amount of any such allocations or distributions, and its determination shall be binding on all Partners. The provisions of this Paragraph 7(c) are intended to constitute a "qualified income offset" as defined in Treasury Regulation §1.704-1(b)(2)(ii)(d), and shall be so interpreted. All allocations with respect to any fiscal quarter pursuant to Paragraph 7(a) and any offsetting allocations pursuant to this Paragraph 7(c) shall be made on an interim basis, subject to adjustment when tax allocations are made pursuant to Paragraph 7(e) at the end of the fiscal year including such quarter.

(d) Changes in Partners' Interests. Notwithstanding the foregoing, with respect to any fiscal quarter during which any Partner's interest in the Partnership changes by reason of the admission of a Partner, the withdrawal of a Partner, non-pro rata contributions of capital to the Partnership, or any other event described in Section 706(d)(1) of the Code and any regulations issued thereunder, allocations of Profit or Loss made pursuant to this Paragraph 7 shall be adjusted appropriately to take into account the varying interests of the Partners in the Partnership during such quarter. The General Partner shall consult with the Partnership's accountants, auditors or other advisers and shall select the method of making such adjustments, which method shall be used consistently thereafter.

(e) Tax Allocations.

(i) For United States Federal, state and local income tax purposes, Partnership income, gain, loss, deduction or credit (or any item thereof) for each fiscal year shall be allocated to and among the Partners in order to reflect the allocation of Profit and Loss pursuant to the other provisions of this Agreement, taking into account any variation between the adjusted tax basis and book value of Partnership property in accordance with the principles of Section 704(c) of the Code. However, in the event that the Partnership is required to recognize income or gain for income tax purposes under Section 684 of the Code (or a similar provision of state or local law) in respect of an in-kind distribution to a Limited Partner, then, solely for such income tax purposes, to the maximum extent permitted by applicable law (as determined by the General Partner in its reasonable discretion), the income or gain shall be allocated entirely to such Limited Partner.

(ii) If any Partners are treated for United States Federal income tax purposes as realizing ordinary income as the result of receiving interests in the Partnership (whether under Section 83 of the Code or under any similar provision of any law, rule or regulation) and the Partnership is entitled to any offsetting deduction (net of any income realized by the Partnership as a result of such receipt), the Partnership's net deduction will be allocated to and among the Capital Accounts of such Partners in such manner as to offset, as nearly as possible, the ordinary income realized by such Partners to the extent consistent with applicable law.

(f) Tax Withholding.

(i) If the Partnership incurs a tax withholding obligation with respect to the share of Partnership income or gains allocated or distributed to any Partner: (A) any amount that is (1) actually withheld from a distribution that otherwise would have been made to such Partner and (2) paid over to any taxing authority in satisfaction of such withholding obligation shall be treated under this Agreement for all purposes as if such amount had been distributed to such

Partner; and (B) to the extent that any amount paid over to any taxing authority by the Partnership in satisfaction of such withholding obligation exceeds the amount, if any, actually withheld from a distribution that otherwise would have been made to such Partner, such excess shall be treated as an interest-free advance to such Partner. Amounts treated as advanced to any Partner pursuant to this Paragraph 7(f) shall be repaid by such Partner to the Partnership within 30 days after the General Partner gives notice to such Partner making demand therefor, which notice shall be given promptly after such advance is made. The Partnership shall collect any unpaid amounts from any Partnership distributions to such Partner that otherwise would be made to such Partner and any unpaid amounts that exceed anticipated distributions to such Partner shall be subtracted from such Partner's Capital Account.

(ii) If the Partnership receives securities disposition proceeds or other investment returns with respect to which non-United States taxes have been withheld at the source, or the Partnership is otherwise required to pay any non-United States taxes, the aggregate amount of such taxes so withheld, paid or required to be paid shall be deemed for all purposes of this Agreement to have been received by the Partnership and then distributed by the Partnership to and among the Partners based on the amount of such withholding or other taxes attributable to each Partner, as determined by the General Partner after consulting with the Partnership's accountants, auditors or other advisers, taking into account any differences in the amount of such taxes attributable to each Partner because of such Partner's status, nationality or other characteristics. The intent of the preceding sentence is to ensure to the extent feasible that the burden of non-United States taxes withheld at the source, as required to be paid by the Partnership, are borne by those Partners to which such taxes are attributable. If the amounts deemed distributed to the Partners in accordance with such sentence do not comport with the provisions of this Agreement relating to the apportionment of distributions among the Partners,

then, notwithstanding such distribution provisions, subsequent distributions to the Partners shall be adjusted in an equitable manner by the General Partner to reflect the intent of such sentence.

(iii) Notwithstanding Paragraph 7(f)(i), such Paragraph shall not apply with respect to any withholding taxes in respect of a Net Tax Obligation of Ezbon or Blue Horizon in respect of its Preferred Units or Investment Common Units. Accordingly, the amounts distributed to the holders of Incentive Common Units and Founder Common Units shall be determined as if Net Tax Obligations were an expense of the Partnership, and the allocations, distributions, and related provisions of this Agreement shall be adjusted and applied in a manner consistent with such intention. For this purpose, a "Net Tax Obligation" with respect to the Preferred Units and Investment Common Units held by Ezbon or Blue Horizon shall mean the excess of (A) all United States Federal, state or local taxes imposed on Ezbon or Blue Horizon in respect of such Units, whether imposed by withholding or otherwise (taking into account any reduced tax rates to which Ezbon or Blue Horizon is entitled pursuant to any tax treaty, without regard to whether Ezbon or Blue Horizon avails itself of such reduced rates), over (B) the value of all refunds, tax credits and tax deductions to which Ezbon, Blue Horizon or their respective beneficial holders are entitled in respect of any amount described in clause (A) (without regard to whether Ezbon, Blue Horizon or their respective beneficial holders claim such refunds, tax credits or tax deductions). Ezbon and Blue Horizon shall each provide to the Partnership a properly completed Form W-8(BEN), and shall provide to the Partnership all other withholding certificates and other documentation, and shall take all reasonable actions necessary to minimize the amount of United States Federal, state and local taxes imposed on Ezbon or Blue Horizon, as the case may be, in respect of its income from the Partnership. For the avoidance of doubt, the Net Tax Obligation of Ezbon or Blue Horizon shall not include any additional tax liability resulting from (w) any withholding taxes pursuant to Sections 1471 through 1474 of the Code to the extent a refund, tax credit or tax deduction is otherwise available (without regard to whether Ezbon, Blue

Horizon or their respective beneficial holders claim such refunds, tax credits or tax deductions), (x) any activities of Ezbon, Blue Horizon or their respective affiliates (including any such activities that cause Ezbon or Blue Horizon to have a permanent establishment in the United States) apart from Ezbon's or Blue Horizon's investment in the Partnership, (y) Ezbon's or Blue Horizon's failure to comply with the requirements of the previous sentence, and (z) Ezbon or Blue Horizon becoming a "United States person" within the meaning of Section 7701 of the Code and the Treasury Regulations promulgated thereunder (or electing to be taxed as such), becoming subject to tax by operation of Section 871(a)(2) of the Code and the Treasury Regulations promulgated thereunder, or otherwise becoming subject to any similar classification for purposes of United States Federal, state or local taxes. Ezbon or Blue Horizon, as applicable, shall, as soon as reasonably practicable, provide the Partnership with such information as is reasonably necessary for the Partnership to determine the Net Tax Obligation with respect to Ezbon or Blue Horizon.

(g) Profits Interests. Except as specifically determined by the General Partner upon prior consultation with the holders of a majority of the Preferred Units, Units issued after the date hereof ("Additional Units") are intended to be a "profits interest" for United States Federal income tax purposes. In furtherance of such intent, notwithstanding any provision in this Agreement to the contrary: (i) no items of income, gain, loss, deduction or credit shall be allocated to any Partner in respect of such Partner's Additional Units to the extent such items relate to any unrealized income, gain, loss, deduction or credit of the Partnership as of the issuance date of such Additional Units; (ii) distributions by the Partnership to any Partner in respect of such Partner's Additional Units shall be limited to the minimum extent necessary to be consistent with the treatment of such Additional Units as a "profits interest" for United States Federal income tax purposes (and if any distributions are not made to any Partner pursuant to the provisions of this clause (ii), then to the extent there is sufficient subsequent appreciation in value of the assets of the Partnership, distributions shall be adjusted so that,

to the maximum extent possible, each Partner receives, on a cumulative basis, the same amount of distributions such Partner would have received as if no distributions in respect of any Units had been limited by reason of any Units constituting profits interests); and (iii) the General Partner shall consult with the Partnership's legal and tax advisors to determine the manner in which allocations and distributions should be made by the Partnership in respect of Additional Units. Following the promulgation, if any, of final regulations and associated guidance by the United States Treasury Department and Internal Revenue Service regarding the tax consequences associated with the issuance or transfer of partnership interests in exchange for the performance of services, the Partnership is authorized and directed to elect (on behalf of the Partnership and each of its Partners) to have the liquidation value safe harbor contemplated by proposed Section 1.83-3(l) of the Treasury Regulations and by the revenue procedure contemplated by IRS Notice 2005-43 (or the corresponding provisions of any such final Treasury Regulations or associated guidance) apply irrevocably with respect to all Units transferred in connection with the performance of services. The Partnership and each Partner (including any Partner obtaining an interest in exchange for the performance of services and any person to whom an interest in the Partnership is transferred) shall comply with all requirements associated with any such election.

8. Distributions.

(a) Tax Distributions. During each fiscal year, the General Partner shall cause the Partnership to distribute in cash to each Partner an amount equal to the aggregate United States Federal and state tax liability and non-United States tax liability attributable to items of income, gain, loss or deduction allocated to such Partner by the Partnership with respect to such year ("Hypothetical Tax Liability"), as determined in accordance with this Paragraph 8(a). Hypothetical Tax Liability shall be determined as if each Partner were a natural person resident in the State of New York, as follows:

(i) The Hypothetical Tax Liability of a Partner shall be computed based upon the items of income, gain, loss, deduction or credit allocated to such Partner by the

Partnership with respect to the fiscal year, without taking into account any other items of income, gain, loss, deduction or credit, and without taking into account the standard deduction or any loss carryovers or exemptions; provided that, if the General Partner determines, after consulting with the Partnership's accountants, auditors or counsel, that the actual tax liability of a Partner resulting from participation in the Partnership is reasonably likely to exceed the Hypothetical Tax Liability as so computed as a result of (A) the phaseout of, or limitation on, the deductibility of expenses allocated to such Partner, whether under Section 67 or Section 68 of the Code or otherwise, (B) the application of the alternative minimum tax or similar taxes, or (C) for any other reason, then, at the election of the General Partner, appropriate adjustments shall be made in computing the Hypothetical Tax Liability of each Partner on an equivalent basis so as to insure that each Partner will receive distributions sufficient to satisfy the actual tax liability attributable to its participation in the Partnership;

(ii) Hypothetical Tax Liability generally shall be determined using the highest marginal rates of Federal and state tax applicable to individuals for such fiscal year; provided, however, that (A) the determination of such marginal tax rates shall take into account the character of income, gain, loss or deduction (including net capital gain or loss) that is allocated and (B) if all or any portion of the Hypothetical Tax Liability is attributable to the alternative minimum tax, such marginal tax rates shall be determined using the highest rates applicable under the alternative minimum tax; and

(iii) Hypothetical Tax Liability for a Partner holding more than one class of Units shall be determined separately for each such class of Units, and without regard to tax items allocated to such Partner in respect of the other classes of Units held by such Partner.

To assist the Partners in paying estimated tax, amounts may be distributed during a fiscal year with respect to such year by using estimates of Hypothetical Tax Liability based upon results of the Partnership's operations for the fiscal year to date; to the extent that such estimates result in distributions

pursuant to this Paragraph 8(a) in excess of the Hypothetical Tax Liability determined after the close of the fiscal year, such excess distributions shall be deemed made pursuant to the other provisions of this Paragraph 8, and subsequent distributions shall be adjusted accordingly. Amounts distributed within 90 days after the end of a fiscal year may, at the option of the General Partner, be deemed to have been made during such fiscal year rather than during the fiscal year in which the distribution is actually made, solely to the extent necessary to satisfy the requirements of this Paragraph 8(a) and solely for such purpose. Distributions previously made to a Partner pursuant to the provisions of this Paragraph 8 during a fiscal year (but not including any tax distribution with respect to a prior fiscal year) in respect of any class of Units shall reduce dollar-for-dollar the amount of any tax distribution to which a Partner is entitled with respect to such fiscal year pursuant to this Paragraph 8(a) in respect of allocations to such Partner corresponding to such class of Units. Tax distributions to any Partner in respect of a class of Units shall be treated as an advance against amounts otherwise distributable to such Partner (or its successors in interest) in respect of such class of Units pursuant to the other provisions of this Agreement.

(b) Tracking Unit Distributions. In connection with any "liquidity event" (including the receipt of interest, dividends, redemption or sale proceeds, royalties and other distributions, an initial public offering, or as otherwise determined in the reasonable discretion of the General Partner and the holders of a majority of the Preferred Units) with respect to a Project for which Tracking Units are then outstanding, the Partnership shall distribute, out of available assets, to the holders of such Tracking Units an amount (on a cumulative basis together with any prior distributions in respect of such Tracking Units) equal to 5% of the Partnership's direct and indirect profits (determined in accordance with GAAP) in such Project; provided that an amount equal to the sum of the Partnership's aggregate cost with respect to such Project and the balance of such profits has been or is simultaneously received by ATC from such Project; provided, further that, in accordance with the granting documents relating to Tracking Units with respect to a Project, the cumulative profits actually distributed to holders of Tracking Units with respect to a Project as of any time shall be less than the

5% profit amount referred to above if and to the extent that Tracking Units for such full 5% profit amount have not been granted and remain outstanding. Such distribution shall be made in cash, or in the discretion of the General Partner and with the prior written approval of the holders of a majority of the Preferred Units, in securities of ATC or other property identified by the General Partner. If Tracking Units are outstanding with respect to more than one Project that has undergone a liquidity event, distributions pursuant to this Paragraph 8(b) shall be apportioned among such holders of Tracking Units in proportion to the fair market values thereof.

(c) Timing of Other Distributions. The General Partner shall cause the Partnership to distribute in cash to the Partners, promptly from time to time, any amounts held by the Partnership which remain after the Partnership has made, or established reserves to make, tax distributions and Tracking Unit distributions which are required by Paragraphs 8(a) and (b), respectively, except to the extent that the General Partner reasonably determines that such amounts may be necessary for paying Partnership, Intermediary and ATC expenses, liabilities and other obligations (including investments in Projects consistent with the applicable budgets) and establishing reserves therefor, in each case in accordance with budgets approved by the Board or as provided for in this Agreement in the case of the Management Fee and indemnification obligations, or as otherwise determined by the General Partner with the prior written consent of the holders of a majority of the Preferred Units. The Partnership may, at the discretion of the General Partner and with the prior written consent of the holders of a majority of the Preferred Units, distribute to the Partners at any time additional amounts in cash or in kind. To the maximum extent practicable, each Intermediary, ATC and each Subsidiary (including, without limitation, each Operating Company), shall fund its operations (including investments in Projects) from capital contributions coming directly or indirectly from the Partnership, rather than through the recycling of their own income or distributions (including distributions received from entities in which they have an ownership interest). Without limitation on the foregoing, the General Partner shall cause each Subsidiary (including, without limitation, each Operating Company) to distribute promptly to

ATC any amounts (including, without limitation, cash and publicly-traded securities) which remain after such Subsidiary has made or established appropriate reserves for paying its expenses, liabilities and other obligations (including investments in Projects consistent with the applicable budgets).

(d) Apportionment of Other Distributions. Distributions pursuant to Paragraph 8(c) shall be made as follows:

(i) First, to the holders of Preferred Units, in proportion to their respective number of such Units, until the cumulative amount distributed pursuant to this Paragraph 8(d)(i) equals the sum of (A) the aggregate amount previously contributed in respect of the Preferred Units and (B) $10,006,000.

(ii) Second, among the holders of Investment Common Units, Founder Common Units and Incentive Common Units, as follows:

(A) To the holders of Incentive Common Units, in proportion to their respective number of such Units, the Incentive Percentage of the amounts proposed to be distributed pursuant to this Paragraph 8(d)(ii) at such time. The "Incentive Percentage" at any time shall mean the number of Incentive Common Units outstanding at such time divided by the sum of the number of authorized Incentive Common Units at such time and the number of authorized Investment Common Units at such time.

(B) To the holders of Investment Common Units and Founder Common Units, in proportion to their respective number of such Units, the balance of the amounts proposed to be distributed pursuant to this Paragraph 8(d)(ii) at such time.

(e) Limitations on Distributions. Anything in this Agreement to the contrary notwithstanding, (i) no distribution shall be made to any Partner if and to the extent that such distribution

would not be permitted under the ELP Law or other applicable law and (ii) with respect to any distribution in respect of an interest intended to be a "profits interest", such distribution shall be limited as provided in Paragraph 7(g). For the avoidance of doubt, no Units issued to Ezbon or Blue Horizon as of the date hereof are intended to be treated as profits interests with respect to which distributions would be limited by reason of clause (ii) of the preceding sentence or Paragraph 7(g).

9. Valuation.

(a) Valuation by General Partner. Subject to Paragraph 9(d), the General Partner shall determine in good faith the fair market value of the assets owned directly and indirectly by the Partnership (including, without limitation, the assets held by ATC), in accordance with the Partnership's valuation methodology adopted by the General Partner and approved by the holders of a majority of the Preferred Units in writing. The General Partner shall submit all such valuations to the holders of a majority of the Preferred Units in writing.

(b) Fair Market Value. In general, but subject to the requirements of Paragraph 9(a), the fair market value of any security owned directly or indirectly by the Partnership which is freely tradeable shall be determined as of the close of trading on the date as of which the value is being determined by taking the last reported sale price of such security on such date on the exchange where it is primarily traded, or, if such security is not traded on an exchange, such security shall be valued at the last reported sale price on such date on the Nasdaq Stock Market, or, if such security is not reported on the Nasdaq Stock Market, such security shall be valued at the closing bid price (or average of bid prices) last quoted on such date as reported by an established quotation service for over-the-counter securities. The determination of the fair market value of all other assets owned directly or indirectly by the Partnership shall be made in accordance with GAAP (as defined in Paragraph 16(e)). In making any such determination of the fair market value of the assets of the Partnership, no allowance of any kind shall be made for goodwill or the name of the Partnership, the Partnership's office records, files and statistical data, or any other intangible assets of the Partnership.

(c) Freely Tradeable Securities. For purposes of this Agreement a security shall be deemed to be "freely tradeable" if (i) the Partnership's entire direct and indirect ownership of such security can be immediately sold by the Partnership to the general public and (ii) such security is either listed on a securities exchange or carried on the Nasdaq Stock Market and market quotations are readily available therefor. Notwithstanding the foregoing, in the case of a distribution of securities to the Partners, a security shall be deemed to be "freely tradeable" if the entire portion of such distribution made to the Limited Partners can be immediately sold by them and the condition provided for in clause (ii) of the preceding sentence is satisfied, assuming for purposes of this sentence that no Limited Partner is an affiliate of the issuer of such security. If only a portion of the Partnership's entire holding of such security satisfies the requirements of this Paragraph 9(c), that portion of the Partnership's entire holding of such security shall be deemed to be "freely tradeable."

(d) Disputed Valuations. If the General Partner determines a valuation for assets owned directly or indirectly by the Partnership which is objected to in writing by the holders of a majority of the Preferred Units within 15 days following the submission thereof in writing to the holders of a majority of the Preferred Units by the General Partner, and if the holders of a majority of the Preferred Units do not, within 45 days following the submission by the General Partner of its initial valuation, approve any subsequent valuation submitted in writing by the General Partner, such valuation shall be determined by an independent chartered financial analyst selected by the General Partner and approved by the holders of a majority of the Preferred Units, whose determination shall be binding upon all Partners.

10. Term.

(a) Term of Partnership. The Partnership shall continue in perpetuity, unless it is sooner dissolved as provided in Paragraph 10(b) or by operation of law.

(b) Termination. The Partnership shall be wound up and dissolved (i) upon any event in respect of the General Partner specified in Section 15(5) of the ELP Law (subject to the

proviso thereto), (ii) at any time there are no limited partners of the Partnership, or (iii) upon the entry of a decree of judicial dissolution of the Partnership pursuant to the ELP Law.

11. Winding Up.

(a) General Provisions. Following termination pursuant to Paragraph 10(b), the Partnership shall be wound up in an orderly manner. The General Partner shall carry out the winding up of the affairs of the Partnership pursuant to this Agreement, provided that if the General Partner is no longer owned solely by Dr. Harrison, the holders of a majority of the Preferred Units shall appoint one or more liquidators to act as the liquidators in carrying out such winding up, subject to any contrary order of the court upon an application for a Partner or creditor pursuant to Section 15(4) of the ELP Law.

(b) Winding Up Distributions. The General Partner or the liquidators, as applicable, shall cause the Partnership to satisfy the Partnership's liabilities and obligations to creditors including Partners who are creditors (whether by payment or the making of reasonable provision for payment thereof). Any gain or loss incurred in connection with the winding up of the Partnership shall be allocated to and among the Partners in the manner provided in Paragraph 7 and the assets remaining after satisfaction of liabilities shall then be distributed among the Partners in cash or in kind in accordance with Paragraph 8. In performing their duties, the General Partner or the liquidators, as applicable, are authorized to sell, exchange or otherwise dispose of the assets of the Partnership in such reasonable manner as the General Partner or the liquidators, as applicable, shall determine to be in the best interest of the Partners.

(c) Expenses of Winding Up. The expenses incurred by the General Partner or the liquidators, as applicable, in connection with winding up the Partnership, all other losses or liabilities of the Partnership incurred in accordance with the terms of this Agreement and reasonable compensation for the services of the General Partner or the liquidators, as applicable, shall be borne by the Partnership, provided that if the General Partner is carrying out the winding up, no such

compensation shall be paid while the Management Agreement remains in effect. The General Partner or the liquidators, as applicable, shall use reasonable efforts to make final distributions following winding up of the Partnership before the later of (i) the end of the Partnership's taxable year in which the date of the completion of the winding up of the Partnership occurs, or (ii) 90 days after the date of the completion of the winding up of the Partnership; provided that at such point in time ATC has sold, distributed or otherwise disposed of all of its Operating Company Securities.

(d) Standard of Care. Neither the General Partner not any liquidator, as applicable, nor any of their respective affiliates shall incur liability to the Partnership or to any Partner for any loss suffered by the Partnership or any Partner which arises out of any action or inaction on the part of such Person or any of its affiliates, provided that in any such case (i) such Person's or such affiliate's course of conduct was in good faith and reasonably believed by such Person or such affiliate to be in or not opposed to the best interests of the Partnership and (ii) such course of conduct did not constitute willful fraud, willful misconduct, Gross Negligence or an intentional and material breach of this Agreement on the part of such Person or affiliate.

(e) Return Obligation. Subject to the ELP Law, no Partner shall be obligated to restore to the Partnership the amount of any negative Capital Account.

(f) Dissolution. Upon completion of the winding up of the Partnership pursuant to this Paragraph 11, a notice of final dissolution shall be filed with the Cayman Islands Registrar of Exempted Limited Partnerships pursuant to the ELP Law and the Partnership shall dissolve thereon.

12. Transfer of Interests of Limited Partners.

(a) Conditions to Transfer. The prior written consent of the General Partner, in its sole and absolute discretion, shall be required for the assignment, pledge, mortgage, hypothecation, sale or other disposition or encumbrance (a "Transfer") by any Limited Partner of all or any part of its interest in the Partnership; provided, however, that such consent shall not be required for a transfer by Ezbon or Blue Horizon (or any subsequent transfer by a direct or indirect transferee of Ezbon or Blue

Horizon) of all or any part of its Limited Partner interest. The General Partner may require that any proposed Transfer be effective only as of the beginning or end of a fiscal quarter. Additionally, any Transfer shall be made only upon receipt by the Partnership of a written opinion of counsel for the Partnership or of other counsel reasonably satisfactory to the Partnership (which opinion shall be obtained at the expense of the transferor) that such Transfer will not result in (A) the Partnership, the General Partner or the Management Company being required to register as an investment company under the U.S. Investment Company Act of 1940, as amended, (B) a violation by the Partnership of the ELP Law, (C) the Partnership being deemed terminated pursuant to Section 708 of the Code, or (D) the Partnership becoming subject to U.S. Federal income taxation at the entity level within the meaning of Section 7704 of the Code or otherwise being treated as a corporation for U.S. Federal income tax purposes; provided, however, that the condition of obtaining a written opinion of counsel may be waived (completely or as to particular matters) by the General Partner in its sole discretion with the prior written consent of the holders of a majority of the Preferred Units. Furthermore, any Transfer otherwise permitted hereunder shall, except in the case of a Transfer by Ezbon or Blue Horizon (or any direct or indirect transferee of Ezbon or Blue Horizon), be made only upon a determination by the General Partner that such Transfer will not result in a material adverse effect (including the cost of compliance) on the Partnership or any Partner as a result of the Partnership's obligations to make tax basis adjustments under Sections 734 or 743 of the Code; provided, however, that the General Partner may, in its sole discretion, waive the requirement to make such a determination. Each Limited Partner shall provide the General Partner with any information necessary to allow the Partnership to comply with its obligations to make tax basis adjustments under Section 734 or 743 of the Code. Except in accordance with the provisions of this Paragraph 12, each Limited Partner agrees with all other Partners that it will not make any Transfer of all or any part of its interest in the Partnership. To the fullest extent permitted by law, any attempted Transfer of a Limited Partner's interest without compliance with this Agreement shall be void. Every Transfer shall be

subject to all of the terms, conditions, restrictions and obligations of this Agreement.

(b) Substituted Limited Partners. Without the consent of the General Partner (other than in the case of a Transfer by Ezbon or Blue Horizon (or any direct or indirect transferee of Ezbon or Blue Horizon)), the aforesaid written opinion of counsel (unless waived by the General Partner with the prior written consent of the holders of a majority of the Preferred Units) and the aforesaid determination by the General Partner (other than in the case of a Transfer by Ezbon or Blue Horizon (or any direct or indirect transferee of Ezbon or Blue Horizon) or unless waived by the General Partner), no transferee of a Partnership interest shall be admitted as a substituted Limited Partner. Any transferee of a Partnership interest transferred in accordance with the provisions of this Paragraph 12 shall be admitted as a substituted Limited Partner (to the extent of the interest transferred) upon the date specified therefor in a document providing for such admission, which document shall be executed by the General Partner (including, without limitation, in its capacity as attorney-in-fact for and on behalf of existing Limited Partners), the transferor of the Partnership interest transferred in accordance with the provisions of this Paragraph 12 and the transferee of such interest (and shall include the transferee's written agreement to be bound by this Agreement), and which admission shall not require the consent of any other Partner. Any transferee of a Partnership interest shall execute such other documents as the General Partner may request to effectuate such Transfer and shall, by its admission as a substituted Limited Partner, be subject to all of the terms of this Agreement and be deemed to have executed a power-of-attorney as provided in Paragraph 18(b). Each Partner, by its execution of this Agreement, agrees and consents to the admission of any substituted Limited Partner pursuant to the terms of this Paragraph 12.

(c) Disclosure of Information. No Limited Partner (other than Ezbon, Blue Horizon or a direct or indirect transferee of either Ezbon or Blue Horizon) shall disclose any Partnership Information (as defined in Paragraph 16(d)) to any prospective transferee (or otherwise violate the provisions of Paragraph 16(d)) in connection with a Transfer or proposed Transfer without the written

consent of the General Partner. The Limited Partners acknowledge that as a condition to granting such a consent, the General Partner may require that any prospective transferee execute a confidentiality agreement with the Partnership which is satisfactory to the General Partner.

(d) Transfer Expenses. The Limited Partner requesting a Transfer shall, at the request of the General Partner, reimburse the Partnership for any expenses reasonably incurred by the Partnership, the General Partner or any of their affiliates in connection with such Transfer or proposed Transfer, including any legal, accounting and other expenses related thereto ("Transfer Expenses"), whether or not such Transfer is consummated. At its election, and in any event if the requesting Limited Partner has not reimbursed the Partnership for any Transfer Expenses incurred by the Partnership in preparing for or consummating a proposed or completed Transfer within 30 days after the General Partner has given to such Limited Partner written demand for payment, the Partnership shall be entitled to reimbursement from the transferee of such interest. If neither such requesting Limited Partner nor the transferee reimburses the Partnership for such Transfer Expenses within a reasonable time, the General Partner may charge the transferee's or the transferor's Capital Account in an amount equal to the Transfer Expenses. For avoidance of doubt, such Transfer Expenses shall include, without limitation, the additional accounting, tax preparation and other administrative expenses reasonably incurred (or to be incurred) by the Partnership in the case of a Transfer that results in tax basis adjustments to be made by the Partnership under Section 743 of the Code or related provisions. Each Limited Partner also agrees to reimburse the Partnership, at the request of the General Partner, for any cost or other expense reasonably incurred by the Partnership, the General Partner or any of their respective affiliates (and if such expenses are not so reimbursed, the General Partner may charge such Limited Partner's Capital Account for such expenses) in connection with any tax basis adjustments that the Partnership is required to make under Section 743 of the Code or related provisions as a result of the transfer of interests of such Limited Partner by its beneficial owners. In the case of a Transfer (or the transfer of interests of a Limited Partner by its beneficial owners) that is

expected to result in future expenses of the type described in the two preceding sentences, the General Partner may estimate the amount of such expenses in good faith, and such estimate shall be final.

(e) No Entity Level Taxation. The General Partner (i) shall not cause or permit any offering of Partnership interests to be registered under the U.S. Securities Act of 1933, as amended (the "Securities Act"), (ii) shall not cause or permit interests in the Partnership to become "traded on an established securities market," and (iii) shall withhold its consent to, and shall not "recognize", any Transfer of a "partnership interest" (or portion thereof) in the Partnership (Y) that, to the General Partner's knowledge after reasonable inquiry, would otherwise be accomplished by a trade on a "secondary market or the substantial equivalent thereof," in each case within the meaning of Section 469(k) or 7704 of the Code and any regulations promulgated thereunder that are in effect at the time of the proposed Transfer, or (Z) if and to the extent that such Transfer, if made, would cause the Partnership to fail to satisfy a "safe harbor" which it satisfied immediately prior to such Transfer, unless the General Partner determines that such Transfer would not otherwise cause the Partnership to be subject to U.S. Federal income tax at the entity level within the meaning of Section 7704 of the Code; for the purpose of the preceding clause, a "safe harbor" shall mean (1) the safe harbor for "transfers not involving trading" pursuant to Treasury Regulation §1.7704-1(e); (2) the safe harbor for "private placements" set forth in Treasury Regulation §1.7704-1(h); or (3) the "lack of actual trading" safe harbor set forth in Treasury Regulation §1.7704-1(j). The foregoing provisions of this Paragraph 12(e) shall not apply to the extent that the General Partner has determined with the consent of the holders of a majority of the Preferred Units that the Partnership shall be taxed as a corporation for U.S. Federal tax purposes.

(f) Representations and Warranties. The transferor and transferee shall provide the General Partner, in connection with any proposed Transfer, (x) with such written representations and warranties as it reasonably may request, including such representations and warranties as the General Partner may determine necessary in order to ensure that the Partnership will not be subject to U.S.

Federal income tax at the entity level within the meaning of Section 7704 of the Code and (y) with such other information as the General Partner reasonably may request, including tax basis information and the amount of gain or loss to be recognized upon such Transfer.

(g) Tag-Along Rights.

(i) If at any time Ezbon or Blue Horizon desires to sell, pursuant to a bona fide offer, all or any part of its Preferred Units to any Person other than an affiliate (a "Buyer"), Dr. Harrison (taken together with his heirs and legal representatives) shall have the right to sell to the Buyer, as a condition to such sale by Ezbon or Blue Horizon, at the same prices per Preferred Unit and, except as otherwise provided herein, on the same terms and conditions as involved in such sale by Ezbon or Blue Horizon, the same percentage of the Preferred Units owned by Dr. Harrison (taken together with his heirs and legal representatives) as the Preferred Units to be sold by Ezbon or Blue Horizon represent with respect to the Preferred Units owned by Ezbon or Blue Horizon (as applicable) immediately prior to the sale by Ezbon or Blue Horizon to the Buyer. If Dr. Harrison (or his heirs or legal representatives) wishes to participate in any sale under this Paragraph 12(g)(i), he (or they) shall notify Ezbon or Blue Horizon (as applicable) in writing of such intention within 20 days after his receipt of a written offer from Ezbon or Blue Horizon giving him (or them) the opportunity to sell such Preferred Units to the Buyer, which written offer shall be made by Ezbon or Blue Horizon promptly after it decides to sell any or all of its Preferred Units to the Buyer. Ezbon or Blue Horizon and Dr. Harrison (and his heirs and legal representatives, as applicable) shall then sell to the Buyer all, or, at the option of the Buyer, any part of the Preferred Units proposed to be sold by them at not less than the price and upon other such terms and conditions, if any, not more favorable to the Buyer than those in the written offer provided by Ezbon or Blue Horizon to Dr. Harrison (and his heirs and legal representatives); provided, however, that any purchase of less than all of such Preferred Units by the Buyer shall be made from Ezbon or Blue Horizon and Dr. Harrison (and his heirs and legal representatives)

pro rata based upon the relative number of Preferred Units that Ezbon or Blue Horizon and Dr. Harrison (and his heirs and legal representatives) are otherwise entitled to sell pursuant to this Paragraph 12(g)(i). Any sale by Dr. Harrison (and his heirs and legal representatives) pursuant to this Paragraph 12(g)(i) shall be subject to the provisions of the fifth sentence of Paragraph 12(h). The provisions of Paragraphs 12(a), (c) and (d) shall not apply in connection with any such tag-along sale other than as the General Partner deems necessary to ensure that the Buyer is bound in with all Partners to the terms of this Agreement as amended or novated thereby. For the avoidance of doubt, the tag-along rights established by this Paragraph 12(g)(i) shall survive any transfer by Ezbon or Blue Horizon of Preferred Units to an affiliate.

(ii) If at any time Ezbon or Blue Horizon desires to sell, pursuant to a bona fide offer, all or any part of its Investment Common Units to a Buyer, each other Limited Partner (including, for the avoidance of doubt, Dr. Harrison and his heirs and legal representatives) shall have the right to sell to the Buyer, as a condition to such sale by Ezbon or Blue Horizon, at the same price per Investment Common Unit and, except as otherwise provided herein, on the same terms and conditions as involved in such sale by Ezbon or Blue Horizon, the same percentage of the aggregate number of Investment Common Units, Founder Common Units and Incentive Common Units owned by such Limited Partner as the Investment Common Units to be sold by Ezbon or Blue Horizon represent with respect to the aggregate number of Investment Common Units, Founder Common Units and Incentive Common Units owned by all Limited Partners (including, for the avoidance of doubt, Ezbon or Blue Horizon) immediately prior to the sale by Ezbon or Blue Horizon to the Buyer. If any such other Limited Partner wishes to participate in any sale under this Paragraph 12(g)(ii), he shall notify Ezbon or Blue Horizon (as applicable) in writing of such intention within 20 days after his receipt of a written offer from Ezbon or Blue Horizon giving him the opportunity to sell such Investment Common Units, Founder Common Units and/or Incentive Common Units to the Buyer, which written offer shall be made by Ezbon

or Blue Horizon promptly after it decides to sell any or all of its Investment Common Units to the Buyer. Ezbon or Blue Horizon and each such other Limited Partner shall then sell to the Buyer all, or, at the option of the Buyer, any part of the Investment Common Units, Founder Common Units and/or Incentive Common Units proposed to be sold by them at not less than the price and upon other such terms and conditions, if any, not more favorable to the Buyer than those in the written offer provided by Ezbon or Blue Horizon to the other Limited Partners; provided, however, that any purchase of less than all of such Investment Common Units, Founder Common Units and/or Incentive Common Units by the Buyer shall be made from Ezbon or Blue Horizon and the other Limited Partners pro rata based upon the relative number of Investment Common Units, Founder Common Units and/or Incentive Common Units that Ezbon or Blue Horizon and each other Limited Partner are otherwise entitled to sell pursuant to this Paragraph 12(g)(ii). Any sale by each other Limited Partner pursuant to this Paragraph 12(g)(ii) shall be subject to the provisions of the fifth sentence of Paragraph 12(h). The provisions of Paragraphs 12(a), (c) and (d) shall not apply in connection with any such tag-along sale other than as the General Partner deems necessary to ensure that the Buyer is bound in with all Partners to the terms of this Agreement as amended or novated thereby. For the avoidance of doubt, the tag-along rights established by this Paragraph 12(g)(ii) shall survive any transfer by Ezbon or Blue Horizon of Investment Common Units to an affiliate.

(h) Drag-Along Rights. Each Partner other than Ezbon and Blue Horizon (collectively, the "Holders") covenants and agrees that it shall, at the written request of Ezbon and Blue Horizon, consent to an Ezbon/Blue Horizon Sale (as defined below) and sell all of its Units pursuant to such Ezbon/Blue Horizon Sale and in accordance with this Paragraph 12(h). For purposes of this Paragraph 12(h), an "Ezbon/Blue Horizon Sale" shall mean the bona fide sale by Ezbon and Blue Horizon to an unaffiliated Person, for cash, of all of their Preferred Units and Investment Common Units (i) at an aggregate price equal to three times the price paid by Ezbon and Blue Horizon

for such Units, (ii) in a transaction which places an enterprise value on the Partnership of at least $3 billion or (iii) with the prior written consent of Dr. Harrison (or his heirs or legal representatives). Dr. Harrison (and his heirs or legal representatives, as applicable) shall sell all of his (or their) Preferred Units and Investment Common Units for the same consideration per Unit and, except as otherwise provided herein, on the same terms and conditions as Ezbon and Blue Horizon in the Ezbon/Blue Horizon Sale. Each Holder (including, without limitation, Dr. Harrison (and his heirs or legal representatives, as applicable)) shall sell, in connection with the Ezbon/Blue Horizon Sale, all other Units held by such Holder, at the then fair market value therefor established by the pricing for the Preferred Units and Investment Common Units in the Ezbon/Blue Horizon Sale, i.e., the then inherent value of the "profits interests" represented by the Founder Common Units and the Incentive Common Units after the then fair market values of the Tracking Units (if any) have been determined in the reasonable discretion of the General Partner. Notwithstanding anything herein to the contrary, in connection with an Ezbon/Blue Horizon Sale, any indemnification a Holder shall be required to provide will be made on a several, and not joint and several, basis, and pro rata to its share of the sale proceeds, no Holder shall be required to agree to any non-solicitation, non-competition or similar restrictive covenant or agreement, and no Holder's obligations for indemnification and similar obligations shall exceed the aggregate of the cash proceeds actually received by, and any amount deposited into escrow on behalf of, such Holder in connection with such Ezbon/Blue Horizon Sale. The provisions of Paragraphs 12(a), (c) and (d) shall not apply in connection with an Ezbon/Blue Horizon Sale other than as the General Partner deems necessary to ensure that the purchaser of the Units in respect of any such Ezbon/Blue Horizon Sale is bound with all Partners to the terms of this Agreement as amended or novated thereby. For the avoidance of doubt, the drag-along rights established by this Paragraph 12(h) shall survive any transfer by Ezbon or Blue Horizon of its Units to an affiliate.

(i) Further Restriction on Sales by Dr. Harrison. Dr. Harrison (and his heirs and

legal representatives) shall not sell any of his (or their) Units until the earlier of July 1, 2021 or such time as the audited value of the Partnership (including the value of prior dividends and other distributions) is at least $7.5 billion, without the prior written consent of the holders of a majority of the Preferred Units, except as otherwise expressly provided for in this Agreement and subject to the right of first negotiation provided in Paragraph 12(j) and the obligation of good faith negotiation provided in Paragraph 18(n). In the event of any sale by Dr. Harrison (or his heirs or legal representatives) of his (or their) Units pursuant to this Paragraph 12(i), the net after-tax sales proceeds to Dr. Harrison (and his heirs or legal representatives, as applicable) shall first be applied against any loans outstanding pursuant to Part A of Schedule D hereto.

(j) Right of First Offer. If at any time Dr. Harrison (or his heirs or legal representatives) desires to sell all or any part of his (or their) Units to any Person (other than pursuant to Paragraphs 4(d), 12(g) or 12(h)), and is not prohibited from doing so under Paragraph 12(i), he (or they) shall submit a written offer (the "Offer") to sell such Units (the "Offered Units") to Ezbon and Blue Horizon on terms and conditions, including price, not less favorable to Ezbon and Blue Horizon than those on which Dr. Harrison (or his heirs or legal representatives) proposes to sell such Units to a third party. Each of Ezbon and Blue Horizon shall have the right to purchase its pro rata share of the Offered Units (based on their relative ownership of the type of Units to be sold), together with a right of oversubscription if either fails to exercise the Offer in full. If Ezbon or Blue Horizon desires to purchase all or any part of the Offered Units, it shall communicate in writing its election to purchase to Dr. Harrison (or his heirs or legal representatives) within 30 days of the date the Offer was made. Sales of the Offered Units shall be made at the principal office of the Partnership on the 45th day following the date the Offer was made (or if such 45th day is not a business day, then on the next succeeding business day.) If Ezbon and Blue Horizon do not purchase all of the Offered Units, the Offered Units not so purchased may be sold by Dr. Harrison (or his heirs or legal representatives) at any time within 120 days after the date the Offer was made, at not less than the price and upon other

terms and conditions, if any, not more favorable to the buyer than those specified in the Offer. In the event of any sale by Dr. Harrison (or his heirs or legal representatives) of his (or their) Units pursuant to this Paragraph 12(j), the net after-tax sales proceeds to Dr. Harrison (or his heirs or legal representatives) shall first be applied against any loans outstanding pursuant to Part A of Schedule D hereto. The provisions of Paragraphs 12(a), (c) and (d) shall not apply in connection with any such sale of Offered Units to either Ezbon and/or Blue Horizon.

13. Transfer of Interest of General Partner. The General Partner shall not assign, pledge, mortgage, hypothecate, sell or otherwise dispose of or encumber all or any part of its general partner interest in the Partnership, except in connection with an Ezbon/Blue Horizon Sale. To the fullest extent permitted by law, any attempted transfer of the General Partner's interest, except in connection with an Ezbon/Blue Horizon Sale, shall be void.

14. Withdrawal. Other than in respect of the withdrawal of Finkelman as contemplated by this Agreement, no Partner shall have the right to withdraw from the Partnership.

15. Indemnification.

(a) Indemnified Parties. To the fullest extent permitted by law, the General Partner, the Management Company, ATPharma, the Tax Matters Partner (as defined in Paragraph 18(i)), each member of the Board, each liquidator for the Partnership, and each member, partner, managing director, director, officer, employee, agent or controlling person of the General Partner, the Management Company, ATPharma or the liquidator (herein referred to collectively as "Indemnified Parties" and singly as an "Indemnified Party") shall be indemnified by the Partnership (to the extent such party has not been indemnified by any other organization) against any loss, judgment, liability, expense and/or amount paid in settlement of any claim incurred by or imposed upon him in connection with any action, suit or proceeding (including any proceeding before any administrative or legislative body or agency), to which he may be made a party or otherwise involved or with which he shall be threatened, by reason of his being the General Partner, the Management Company, ATPharma, the Tax

Matters Partner, a member of the Board, a liquidator for the Partnership, or a member, partner, managing director, director, officer, employee, agent or controlling person of the General Partner, the Management Company, ATPharma, a liquidator or any organization in which the Partnership directly or indirectly owns or owned an interest or of which the Partnership is or was a creditor, which organization he serves or has served as a managing director, director, officer, employee or agent directly or indirectly at the request of the Partnership (in any case, whether or not he continues to be the General Partner, the Management Company, ATPharma, the Tax Matters Partner, a member of the Board, a liquidator for the Partnership, or member, partner, managing director, director, officer, employee, agent or controlling person of the General Partner, the Management Company, ATPharma, a liquidator or of such organization at the time such action, suit or proceeding is brought or threatened, provided that with respect to any former Operating Company of which the Partnership no longer directly or indirectly owns any Operating Company Securities, such Indemnified Party shall only be entitled to indemnification and advancement of expenses pursuant to this Paragraph 15 for causes of action that arose from facts and circumstances in existence on or prior to the first annual anniversary of the date that the Partnership directly or indirectly disposed of the last of its Operating Company Securities of such Operating Company, regardless of when such action, suit or proceeding was brought or threatened), provided that the Indemnified Party acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the Partnership, except to the extent any such loss, judgment, liability, expense and/or amount paid in settlement of any claim was the result of willful fraud, willful misconduct, Gross Negligence or intentional and material breach of this Agreement on the part of the Indemnified Party or a dispute between or among the General Partner and one or more of its owners, the Management Company and one or more of its employees, ATPharma and one or more of its employees, two or more owners of the General Partner, two or more employees of the Management Company or two or more employees of ATPharma, and further provided that in the case of an owner of the General Partner or a member, partner, managing director, director, officer,

employee, agent or controlling person of the Management Company, ATPharma, a liquidator for the Partnership or such other organization, the action, suit or proceeding related directly or indirectly to the affairs of the Partnership. The General Partner is authorized to enter into such separate agreements or deed poll on behalf of the Partnership with or benefiting the Indemnified Parties on terms consistent with this Paragraph 15(a) as the General Partner in its reasonable discretion considers necessary or desirable to give full and complete effect to the indemnity provisions set forth herein. Notwithstanding anything to the contrary set forth in this Paragraph 15, holders of Tracking Units may only be indemnified by the Operating Company and/or Project with respect to which their Tracking Units relate, and not by the Partnership, ATP or any Subsidiary (including, without limitation, any Operating Company) or other Project.

(b) Indemnification Not Exclusive. The foregoing rights of indemnification shall be in addition to any rights to which an Indemnified Party may otherwise be entitled and shall inure to the benefit of the executors, administrators, personal representatives, successors or assigns of each such person.

(c) Expenses. The Partnership may pay the expenses incurred by an Indemnified Party in defending any action, suit or proceeding in advance of the final disposition thereof, upon receipt of a written undertaking by such Indemnified Party to repay such payment if he shall be determined not to be entitled to indemnification therefor as provided herein; provided that no such advance payment by the Partnership to an Indemnified Party shall be made with respect to expenses incurred as a result of any action, suit or proceeding initiated against such Indemnified Party by the holders of a majority of the Preferred Units.

(d) Ordering of Indemnification Obligations. Solely for purposes of clarification, and without expanding the scope of indemnification pursuant to this Paragraph 15, the Partners intend that, to the maximum extent permitted by law, as between (i) Operating Companies, (ii) the Partnership and (iii) the General Partner, the Management Company, ATPharma or a liquidator for the

Partnership, this Paragraph 15 shall be interpreted to reflect an ordering of liability for potentially overlapping or duplicative indemnification payments, with any applicable Operating Company having primary liability, the Partnership having only secondary liability, and (if applicable) the General Partner, the Management Company, ATPharma or a liquidator for the Partnership having only tertiary liability. The possibility that an Indemnified Party may receive indemnification payments from an Operating Company shall not restrict the Partnership from making payments under this Paragraph 15 to an Indemnified Party that is otherwise eligible for such payments, but such payments by the Partnership are not intended to relieve any Operating Company from any liability that it would otherwise have to make indemnification payments to such Indemnified Party and, if an Indemnified Party that has received indemnification payments from the Partnership actually receives duplicative indemnification payments from an Operating Company for the same claim, such Indemnified Party shall repay the Partnership to the extent of such duplicative payments. If, notwithstanding the intention of this Paragraph 15, an Operating Company's obligation to make indemnification payments to an Indemnified Party is relieved or reduced under applicable law as a result of payments made by the Partnership pursuant to this Paragraph 15, the Partnership shall have, to the maximum extent permitted by law, a right of subrogation against (or contribution from) such Operating Company for amounts paid by the Partnership to an Indemnified Party that relieved or reduced the obligation of such Operating Company to such Indemnified Party. Indemnification payments (if any) made to an Indemnified Party by the General Partner, the Management Company, ATPharma or a liquidator for the Partnership in respect of any claim for which (and to the extent) such Indemnified Party is otherwise eligible for payments from the Partnership under this Paragraph 15 shall not relieve the Partnership from its obligation to such Indemnified Party and/or the General Partner, the Management Company, ATPharma or a liquidator for the Partnership, as applicable, for such payments. As used in this Paragraph 15, "indemnification" payments made or to be made by an Operating Company shall be deemed to include (i) payments made or to be made by any successor to the indemnification

obligations of such Operating Company and (ii) equivalent payments made or to be made by or on behalf of such Operating Company (or such successor) pursuant to an insurance policy or similar arrangement.

(e) Partner Clawback. If (i) the Partnership incurs a liability or obligation under this Paragraph 15 and (ii) the Partnership does not have sufficient available cash on hand to satisfy such liability or obligation, then the General Partner, in its sole discretion, may require that each Partner make additional payments to the Partnership, upon no less than ten days' prior written notice from the General Partner, of its pro rata share (according to the amount by which such liability or obligation would have reduced the aggregate distributions received by each Partner (and its predecessors in interest) as of the time of such notice in respect of each class of Units then held by each Partner), after giving effect to any distributions returned by the Partners pursuant to this Paragraph 15(e) and any distribution of such returned amounts to the Partners, had such liability or obligation been incurred and paid by the Partnership prior to the time any distributions were made) of an amount up to the amount necessary to satisfy such liability or obligation; provided that (A) no Partner shall be required to contribute an aggregate amount pursuant to this Paragraph 15(e) that exceeds 20% of its aggregate capital contributions to the Partnership and (B) no Partner shall be required to contribute an amount that exceeds the aggregate amount of distributions made to such Partner (and such Partner's predecessors in interest) in respect of the applicable class of Units during the 24-month period preceding the date of such notice, except to fund any such liability or obligation (1) that the General Partner, the Partnership or an Indemnified Party was in the process of litigating, arbitrating or otherwise settling prior to the start of such 24-month period and (2) with respect to which the General Partner, the Partnership or an Indemnified Party delivered to the Partners written notice of such litigation, arbitration or settlement process prior to the start of such 24-month period. A Partner's obligation to make contributions to the Partnership under this Paragraph 15(e) shall survive the winding up and dissolution of the Partnership (and, to the fullest extent permitted by law, the General

Partner may require any payments made after the Partnership's dissolution to be made to the General Partner or directly to an Indemnified Party). The return obligations of the Partners pursuant to this Paragraph 15(e) shall be in addition to their capital contribution obligations with respect to their Contingent Subscriptions (if any). Amounts returned by a Partner pursuant to this Paragraph 15(e) in respect of a class of Units shall be treated as a reduction in the amount of distributions received by such Partner in respect of such class of Units, and amounts returned by such Partner pursuant to this Paragraph 15(e) shall not reduce such Partner's unfunded Contingent Subscription; provided that failure to make a required payment pursuant to this Paragraph 15(e) by any Partner may, in the General Partner's sole discretion, be treated for purposes of Paragraph 5(c) and the provisions and remedies therein as a failure by such Partner to make a required capital contribution with respect to its Contingent Subscription (if any). Amounts to be returned pursuant to this Paragraph 15(e) shall be payable in cash. For purposes of determining any applicable limit on a Partner's return obligation pursuant to this Paragraph 15(e), amounts distributed to a Partner in kind shall be valued at their fair market value on the date of distribution. The provisions of this Paragraph 15(e) shall not be construed or interpreted as inuring to the benefit of any creditor of (i) the Partnership (other than Indemnified Parties with respect to which the General Partner has elected to invoke the provisions of this paragraph), (ii) a Limited Partner, (iii) the General Partner or (iv) any Indemnified Party.

16. Fiscal Year; Records and Reports; Confidentiality; Organizational Expenses.

(a) Fiscal Year. Except as may be required by the Code, the fiscal year and the taxable year of the Partnership shall each be the calendar year.

(b) Partnership Records. At all times the General Partner shall cause to be kept proper and complete books of account, in which shall be entered fully and accurately the transactions of the Partnership in accordance with the ELP Law. Such books of account, together with an executed copy of this Agreement and the Registration Statement (and any amendments thereto) and a list containing the names, addresses and Subscriptions of the Partners (the "List of Partners"), shall at all

times be maintained at a principal office of the Partnership, and shall be open to inspection by the Partners or their duly authorized representatives for purposes related to the inspecting Limited Partner's interest in the Partnership. Copies of all information and records referenced in the preceding sentence shall be provided to each holder of at least 25,000 Preferred Units promptly following its written request therefor. A copy of the List of Partners shall also be provided to each holder of at least 25,000 Preferred Units promptly after any change thereto.

(c) Audit. At any time while the Partnership continues and until its affairs have been wound up (but only during reasonable business hours), each Partner may fully examine and audit the Partnership books, records, accounts and assets, including bank balances, may make copies of such books and records (provided such Partner agrees to reimburse the Partnership or the Management Company, as applicable, for the reasonable costs incurred in making such copies), and may make, or cause to be made, any examination or audit at such Partner's expense. Notwithstanding the preceding sentence, the cost of any such audit, examination or copies made by or on behalf of the holders of a majority of the Preferred Units shall, in each case, be borne by the Partnership. Any such examination or audit may be undertaken by (i) such Limited Partner, or (ii) a designee of a Limited Partner (provided that the designee agrees in writing to the confidentiality provisions of Paragraph 16(d) or is otherwise subject (by the nature of its position, pursuant to written agreement, or otherwise) to substantially equivalent restrictions with respect to use and disclosure of Partnership Information as are set forth in Paragraph 16(d)). The Partnership shall ensure that the provisions of this Paragraph 16(c) apply with equal respect to the books and records of ATP and any Subsidiary (including, without limitation, any Operating Company).

(d) Confidentiality.

(i) A Limited Partner's rights to access or to receive any information about the Partnership, an Intermediary, ATC, the Operating Companies and their respective affairs, including, without limitation, (1) information to which a Limited Partner is provided access

pursuant to Paragraph 16(b) or (c), (2) financial statements, reports and other information provided pursuant to Paragraphs 16(e) and (f), and (3) this Agreement, any amendments hereto or any documents pursuant to which such Limited Partner acquired its interest in the Partnership and any other related agreements or materials (the "Partnership Information"), are conditioned on such Limited Partner's willingness and ability to assure that the Partnership Information will be used solely by such Limited Partner for purposes reasonably related to such Limited Partner's interest as a Limited Partner, and that such Partnership Information will not become publicly available as a result of such Limited Partner's rights to access or to receive such Partnership Information, and each Limited Partner agrees not to use Partnership Information other than for purposes of evaluating, monitoring or protecting its investment in the Partnership. For purposes of this Paragraph 16(d), Partnership Information (including information relating to an Operating Company or another Partner (or its respective partners, stockholders or members)) provided by one Partner to another shall be deemed to have been provided on behalf of the Partnership.

(ii) Each Limited Partner acknowledges the General Partner's belief that the Partnership Information includes trade secrets of the Partnership and the Operating Companies and that the release of any such Partnership Information would cause competitive harm to the Partnership, the General Partner, the Management Company, and/or the Operating Companies.

(iii) The Limited Partners acknowledge that the General Partner and the Management Company and their respective partners, members, managing directors, officers, and employees are expected to acquire confidential third-party information that, pursuant to fiduciary, contractual, legal or similar obligations, may not be disclosed to the Partnership or the Limited Partners without violating such obligations, and agree that none of such Persons shall be in breach of any duty under this Agreement or the ELP Law as a result of acquiring, holding or failing to disclose such information to the Partnership or the Limited Partners.

(iv) Each Limited Partner agrees to maintain any Partnership Information provided to it in the strictest confidence and not to disclose the Partnership Information to any Person including, without limitation, a prospective transferee of such Partner's interest in the Partnership, without the prior written consent of the General Partner. Notwithstanding the foregoing, the General Partner hereby consents to the disclosure by each Limited Partner of Partnership Information to such Limited Partner's accountants, attorneys, board members and similar advisors bound by a duty of confidentiality.

(v) With respect to any Limited Partner, the obligation to maintain any Partnership Information in confidence shall not apply to any Partnership Information: (A) that is required to be disclosed pursuant to applicable law or a securities exchange rule (but in each case only to the extent of such requirement and, to the fullest extent permitted by law, only if prompt notice is given to the Partnership so that the General Partner may seek an appropriate remedy with the reasonable cooperation of such Limited Partner; (B) that is required to be disclosed in order to protect such Limited Partner's interest in the Partnership (but only to the extent of such requirement and only after consultation with the General Partner); (C) that is publicly known or available in the absence of any improper or unlawful action on the part of such Limited Partner; (D) that is known or available to such Limited Partner other than through or on behalf of the Partnership, the General Partner or the Management Company; or (E) the disclosure of which has been consented to by the General Partner in writing.

(vi) Each Limited Partner shall promptly inform the General Partner if it becomes aware of any reason, whether under law, regulation, policy, securities exchange rule or otherwise, that it (or any of its equity holders) will, or might become compelled to, use the Partnership Information other than as contemplated by Paragraph 16(d)(i) or disclose Partnership Information in violation of the confidentiality restrictions in Paragraph 16(d)(iv) (disregarding Paragraph 16(d)(v)(A)).

(vii) Notwithstanding any other provision of this Agreement and to the fullest extent permitted by law, with the exception of the financial statements and reports to be provided to certain holders of Preferred Units and Dr. Harrison (or his heirs or legal representatives) pursuant to Paragraphs 16(e) and (f), the General Partner shall have the right not to provide any Limited Partner, for such period of time as the General Partner in good faith determines to be advisable, with any Partnership Information that such Limited Partner would otherwise be entitled to receive or to have access to pursuant to this Agreement or the ELP Law if: (A) the Partnership, the General Partner, an Intermediary, ATC, the Management Company or ATPharma is required by law or by agreement with a third party to keep such Partnership Information confidential; (B) the General Partner in good faith believes that the disclosure of such Partnership Information to such Limited Partner is not in the best interest of the Partnership or could damage the Partnership or the conduct of the affairs of the Partnership or the Operating Companies (which may include a determination by the General Partner that such Limited Partner (or any of its equity holders) is disclosing or may disclose such Partnership Information (or may be compelled to disclose such Partnership Information) or has not indicated a willingness to protect Partnership Information from being disclosed (or compelled to be disclosed) and that the potential of such disclosure by such Limited Partner (or any of its equity holders) is not in the best interest of the Partnership or could damage the Partnership, the Operating Companies or the conduct of the affairs of the Partnership or the Operating Companies) or (C) such Limited Partner has notified the General Partner of its election not to have access to, or to receive, such Partnership Information.

(viii) In addition to any other remedies available at law, the Partners agree that, to the fullest extent permitted by law, the Partnership shall be entitled to equitable relief, including, without limitation, the right to an injunction or restraining order, as a remedy for any

failure by a Limited Partner to comply with its obligations with respect to the use and disclosure of Partnership Information, as set forth in Paragraph 16(d)(i) and (iv).

(ix) Each Limited Partner agrees to cooperate with such procedures and restrictions as may be developed by the General Partner from time to time in connection with the disclosure of non-public Partnership Information, as determined by the General Partner to be reasonably necessary and advisable to maintain and promote compliance with legal and other regulatory matters applicable to the Partnership, the Limited Partners, the General Partner, an Intermediary, ATC and the Management Company, including securities laws and regulations.

(x) Each Limited Partner acknowledges and agrees that the General Partner may consider the different circumstances of Limited Partners with respect to the restrictions and obligations imposed on Limited Partners in this Paragraph 16(d) and the provision of information under this Agreement, and the General Partner in its reasonable discretion may agree to waive or modify any of such restrictions and/or obligations with respect to a Limited Partner with the consent of such Limited Partner. Each Limited Partner further acknowledges and agrees that any such agreement by the General Partner with a Limited Partner to waive or modify any of the restrictions and/or obligations imposed by this Paragraph 16(d) (or to withhold Partnership Information) shall not constitute a breach of any duty stated or implied in law or in equity to any Limited Partner, regardless of whether different agreements are reached with different Limited Partners.

(xi) Notwithstanding any other provision of this Agreement to the contrary, to comply with Treasury Regulation §1.6011-4(b)(3), each Limited Partner (and any employee, representative or other agent of such Limited Partner) may disclose to any and all Persons, without limitation of any kind, the U. S. Federal tax treatment and tax structure of the Partnership or any transactions contemplated by the Partnership, it being understood and agreed that, for this purpose (A) the name of, or any other identifying information regarding, (1) any existing or

future Partner (or any affiliate thereof), or (2) any investment or transaction entered into by the Partnership, (B) any performance information relating to the Partnership or its investments or to Operating Companies, and (C) any performance or other information relating to other investments sponsored by the General Partner, ATC or the Management Company do not constitute such tax treatment or tax structure information.

(xii) To the fullest extent permitted by law, the provisions of this Paragraph 16(d) shall survive the withdrawal of any Partner or the transfer or assignment of any Partner's interest in the Partnership and shall be enforceable against such Partner after such withdrawal, transfer or assignment.

(xiii) Notwithstanding anything to the contrary set forth in this Agreement, this Paragraph 16(d) shall not be applied to authorize any information to be withheld from, or any access to any information to be limited in respect of, Ezbon, Blue Horizon or their respective direct or indirect transferees or assignees.

(e) Annual Financial Statements. The General Partner shall transmit to each holder of at least 25,000 Preferred Units and Dr. Harrison (or his heirs or legal representatives) within 90 days after the close of each fiscal year the financial statements of the Partnership for such fiscal year. Such financial statements shall include statements of assets and liabilities, net assets represented by Partners' capital, operations, changes in net assets, cash flows and changes in such Partner's capital, shall be prepared and presented in accordance with generally accepted accounting principles in the U.S. ("GAAP"), except for such deviations as are required to implement the terms of this Agreement, and shall be audited by a firm of independent public accountants or auditors of national or international standing which has been approved by the holders of a majority of the Preferred Units. Notwithstanding anything in this Agreement to the contrary, the Partnership shall not be required to consolidate (or otherwise combine, including, without limitation, via the equity method of accounting) its financial results with those of Operating Companies whether or not U.S. generally accepted

accounting principles would require such consolidation (or other form of combination). The General Partner shall also use its best efforts to transmit to each Partner within 90 days after the close of each fiscal year a report indicating such Partner's share of all items of income, gain, loss or deduction of the Partnership for such year for U.S. Federal income tax purposes and such additional information with respect to the Partnership as he may reasonably request to enable him to complete any tax return or report he is required to file or otherwise to comply with applicable law. Without limiting the foregoing (i) the General Partner shall use reasonable efforts to determine whether any entity in which the Partnership invests (directly or indirectly) is a "passive foreign investment company" (a "PFIC") as defined in Section 1297 of the Code and will so advise the Partners and (ii) at the request of any Partner, the General Partner shall use reasonable efforts to cause each entity that the General Partner determines is a PFIC based on the advice of the Partnership's U.S. tax advisors to agree to provide on a timely basis to the Partnership or the Partners, as applicable, the financial information that is necessary to permit the Partnership or the Partners, as applicable, to make an election to treat any such PFIC as a "qualified electing fund" under Section 1295 of the Code (a "QEF Election"), and to permit the Partners to comply with their U.S. federal income tax reporting requirements relating to the PFIC. For information purposes, the General Partner shall transmit to each holder of at least 25,000 Preferred Units and Dr. Harrison within 90 days after the close of each fiscal year, (i) a list of the Partnership's direct and indirect investments, valued at fair market value as determined in accordance with Paragraph 9, as of the end of such fiscal year, and (ii) a brief narrative report as to status and operations of the Partnership. The holders of a majority of the Preferred Units may, in their sole discretion, require the Partnership to furnish annual financial statements of the type specified in this Paragraph 16(e) with respect to any Intermediary, ATC and any Subsidiary (including, without limitation, any Operating Company).

(f) Quarterly Financial Statements. Each holder of at least 25,000 Preferred Units and Dr. Harrison (or his heirs or legal representatives) shall be furnished, within 45 days after the end

of each of the first three quarters of each fiscal year of the Partnership, (i) an unaudited list of the Partnership's direct and indirect investments as of the end of such quarter, (ii) unaudited statements of assets and liabilities of the Partnership and net assets represented by Partners' capital as of the end of such quarter and (iii) unaudited statements of operations and changes in such holder or Dr. Harrison's (or his heirs' or legal representatives') capital (as the case may be) for the period from the beginning of such fiscal year through the quarter then ended. Such financial statements shall be prepared and presented in accordance with GAAP, except for such deviations as are required to implement the terms of this Agreement, the omission of certain information and footnote disclosures normally included in year-end financial statements prepared in accordance with GAAP and as otherwise provided in Paragraph 16(e). For information purposes, the General Partner shall transmit to each holder of at least 25,000 Preferred Units and Dr. Harrison (or his heirs or legal representatives) within 45 days after the end of each quarter, (i) a list of the Partnership's direct and indirect investments, valued at fair market value in accordance with Paragraph 9, as of the end of such quarter, and (ii) a narrative report as to status and operations of the Partnership (which shall include a discussion of operations compared to each then currently applicable budget). The holders of a majority of the Preferred Units may, in their sole discretion, require the Partnership to furnish quarterly financial statements of the type specified in this Paragraph 16(f) with respect to ATC, any Intermediary and any Subsidiary (including, without limitation, any Operating Company).

(g) Monthly Telephone Updates. At the request of the holders of a majority of the Preferred Units, the General Partner will make itself available to such holders by telephone for an update as to status and operations of the Partnership.

(h) Web Site. Notwithstanding Paragraph 18(a), the General Partner shall be deemed to have satisfied its obligations to transmit or furnish financial statements and reports pursuant to this Paragraph 16 if the General Partner posts such financial statements and/or reports on a web site and gives prompt written notice to the requisite Limited Partners, pursuant to Paragraph 18(a), of the

availability of such financial statements and/or reports, the URL address of the web site and a password for access to such web site, if necessary. Any such financial statements and reports posted to a web site and not delivered in hard copy to the requisite Limited Partners shall be maintained on such web site for a reasonable period of time. Any such web site shall provide for print capability for such financial statements and reports, provided that, with respect to any Limited Partner (except any holder of at least 25,000 Preferred Units or Dr. Harrison (or his heirs or legal representatives)), the General Partner may disable the print capability (or not allow print capability) if the General Partner exercises (or would be permitted to exercise) its right pursuant to Paragraph 16(d)(vii) not to provide such Limited Partner with Partnership Information, but only to the extent provided therein.

(i) Organizational Expenses. The organizational expenses of the Partnership shall be amortized for U.S. Federal income tax purposes to the extent permitted by Section 709 of the Code. The reasonable out-of-pocket legal expenses incurred by Ezbon and Blue Horizon in connection with the organization of the Partnership shall be reimbursed to Ezbon and Blue Horizon by the Partnership and treated as an organizational expense of the Partnership.

17. Amendment. Except as otherwise provided in this Agreement, the terms and provisions of this Agreement may be waived (on behalf of all Partners), modified or amended only with the written consent of the General Partner, the holders of a majority of the Preferred Units and Dr. Harrison (or his heirs or legal representatives) so long as Dr. Harrison (or his heirs or legal representatives) remain as Limited Partners; provided, however, that the consent of Dr. Harrison (or his heirs or legal representatives) shall not be required to (i) authorize additional Preferred Units and Investment Common Units, (ii) modify or delete any provision of this Agreement that becomes contrary to applicable law after the date of this Agreement, provided that such modification or deletion is to the minimum extent required to comply with such law, or (iii) modify any provision of this Agreement for bona fide tax structuring reasons, provided that such modification does not have a disproportionate adverse affect on Dr. Harrison (or his heirs or legal representatives). Upon obtaining all approvals required by this Agreement (if any)

and without further action or execution by any other Person, including any Limited Partner, (i) any amendment to this Agreement may be implemented and reflected in a writing executed solely by the General Partner, and (ii) the Limited Partners shall be deemed a party to and bound by such amendment of this Agreement. The General Partner shall promptly furnish copies of any amendments to this Agreement to all Partners.

18. General Provisions.

(a) Notices. Except where otherwise specifically provided in this Agreement, all notices, requests, consents, approvals and statements shall be in writing and shall be deemed to have been properly given two days after delivery by courier or being sent by e-mail, addressed in each case, if to the Partnership or the General Partner, at c/o Maples Corporate Services Limited, P.O. Box 309, Ugland House, Grand Cayman, KY1-1104, Cayman Islands, e-mail: seth@appletreepartners.com, and if to any Limited Partner, at the address set forth in the List of Partners or, in each case, to such other address or addresses as the addressee may have specified by written notice as aforesaid to the other parties. Sections 8 and 19(3) of the Electronic Transactions Law (2003 Revision) of the Cayman Islands shall not apply.

(b) Power of Attorney. To the fullest extent permitted by law, (i) each of the Limited Partners hereby irrevocably constitutes and appoints the General Partner as his attorney-in-fact with full power, proxy and authority in his name, place and stead to make, execute, sign, acknowledge and, if necessary, file (A) any required amendment to the Registration Statement; (B) any amendment to this Agreement that does not require, under the terms of this Agreement, the approval of all the Partners, including any amendment pursuant to Paragraph 5(b); provided that Partners holding the interest in the Partnership specified in this Agreement as being required for such amendment have signed or otherwise approved such amendment and all other required signatures and approvals have been obtained; (C) any other instrument, certificate or document required from time to time to admit a Partner, to effect his substitution as a Partner or to effect the substitution of the

Partner's assignee as a Partner; and (D) any other instrument, certificate or document as may be required or appropriate under the laws, regulations or procedures of the Cayman Islands, the U.S. or any state or governmental entity in any jurisdiction in which the Partnership is conducting or intends to conduct its affairs, provided all such instruments, certificates and other documents referred to in clauses (A), (B), (C) and (D) above are in accordance with the terms of this Agreement as then in effect. Copies of all such instruments, certificates and other documents executed pursuant to such power of attorney shall be sent to all Partners, except any instrument, certificate or document required from time to time to admit a Partner, to effect his substitution as a Partner or to effect the substitution of the Partner's assignee as a Partner.

(i) Each of the Partners is aware that the terms of this Agreement permit certain amendments to the Registration Statement and this Agreement to be effected and certain other actions to be taken by or with respect to the Partnership, in each case with the approval or by the vote of less than all the Partners. If, as and when (A) an amendment of the Registration Statement or this Agreement is proposed or an action is proposed to be taken by or with respect to the Partnership which does not require, under the terms of this Agreement, the approval of all of the Partners, (B) Partners holding the interest in the Partnership specified in this Agreement as being required for such amendment or action have approved such amendment or action in the manner contemplated by this Agreement, and (C) a Partner has failed or refused to approve such amendment or action (hereinafter referred to as a non-consenting Partner), each Partner agrees that (1) it is bound thereby, (2) any such amendment or action may be executed solely by the General Partner without any further action or execution by any other Person (including, without limitation, the non-consenting Partners), and (3) to the fullest extent permitted by law, the special attorney specified above, with full power of substitution, is hereby authorized and empowered to execute, acknowledge, make, swear to, verify, deliver, record, file and/or publish, for and on behalf of such non-consenting Partner, and in his name, place and stead, any and all instruments

and documents which may be necessary or appropriate to permit such amendment to be lawfully made or action lawfully taken. Each Partner is fully aware that he and each other Partner have executed this special power of attorney, and that each Partner will rely on the effectiveness of such powers with a view to the orderly administration of the Partnership's affairs.

(ii) To the fullest extent permitted by law, the foregoing grant of authority and that granted pursuant to Paragraph 5(c), (A) is each a special power of attorney coupled with an interest in favor of the General Partner, deemed to secure the proprietary interest of the General Partner and/or the performance of obligations owed to the General Partner, and as such shall be irrevocable and shall survive the death, disability or incapacity (or, in the case of a Partner that is a corporation, association, limited liability company, partnership, trust or other entity, shall survive the merger, dissolution or other termination of the existence) of the Partner and (B) shall survive the assignment by the Partner of the whole or any portion of his interest, except that in the case of an assignment of the Partner's whole interest, this power of attorney shall survive such assignment for the sole purpose of enabling the General Partner to execute, acknowledge and file any instrument necessary to effect the substitution of his transferee.

(c) Additional Documents and Acts. Each Partner hereby agrees to execute and deliver all certificates, instruments or documents required by laws of the various states or other jurisdictions in which the Partnership conducts its affairs, to conform with the laws of such states or other jurisdictions governing limited partnerships.

(d) Binding on Successors. This Agreement shall be binding upon and it shall inure to the benefit of the respective heirs, successors, permitted assigns and legal representatives of the parties hereto. Without limitation as to the foregoing, the rights of Dr. Harrison specified in this Agreement and the Schedules hereto shall inure to the benefit of his heirs and legal representatives.

(e) Counterparts. This Agreement or any amendment hereto may be signed in any number of counterparts, each of which shall be an original, but all of which taken together shall con-

stitute one Agreement (or amendment, as the case may be).

(f) Voting. Any vote or other action required or permitted to be taken by this Agreement may be taken by written consent signed by not less than the requisite percentage in interest of parties required or permitted to take such vote or other action. Notwithstanding anything to the contrary set forth in this Agreement, a Defaulting Partner shall not have the right to vote on or grant or withhold consent or approval with respect to any matter, except as may otherwise be required by law, and any Units it may hold shall not be deemed outstanding for purposes of determining the parties required or permitted to take any vote or other action. The voting, consent, approval, appointment and other such rights granted to Ezbon and Blue Horizon pursuant to this Agreement (i) are personal to them and may not be assigned, transferred or otherwise disposed of without the consent of the General Partner, in its sole and absolute discretion, except in connection with a transfer by Ezbon and Blue Horizon of their entire interests as limited partners, and (ii) shall cease and be of no further force or effect if Ezbon or Blue Horizon becomes a Defaulting Partner, except as may otherwise be required by law or this Agreement.

(g) Applicable Law, Remedies for Breach and Jurisdiction.

(i) Notwithstanding the place where this Agreement may be executed by any of the parties hereto, the parties expressly agree that all the terms and provisions hereof shall be construed under the laws of the Cayman Islands without regard to principles of conflicts of laws and, without limitation thereof, that the ELP Law as now adopted or as may be hereafter amended shall govern this Agreement.

(ii) EACH LIMITED PARTNER AND THE GENERAL PARTNER, ON BEHALF OF ITSELF AND THE PARTNERSHIP, IRREVOCABLY WAIVE, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT TO A JURY TRIAL IN CONNECTION WITH ANY ACTION OR PROCEEDING BROUGHT BY OR AGAINST THE GENERAL PARTNER, THE MANAGEMENT COMPANY (OR THEIR RESPECTIVE

PARTNERS, MEMBERS, STOCKHOLDERS, MANAGERS, DIRECTORS, OFFICERS, CONSULTANTS OR EMPLOYEES, IN THEIR CAPACITY AS SUCH OR IN ANY RELATED CAPACITY) OR THE PARTNERSHIP, OR IN ANY WAY RELATING TO THIS AGREEMENT OR ANY SCHEDULE HERETO.

(iii) Except as otherwise specifically provided in this Agreement, the remedies set forth in this Agreement are cumulative and shall not exclude any other remedies to which a party may be lawfully entitled.

(iv) In determining what action, if any, shall be taken against a Limited Partner in connection with such Limited Partner's breach of this Agreement, the General Partner shall seek to obtain a favorable result (as determined by the General Partner in its sole discretion) for the Partnership and the other Partners, and the General Partner, in its sole discretion, may take different actions with respect to multiple Limited Partners that breach the same provisions. To the fullest extent permitted by law, each Limited Partner hereby specifically agrees that, in the event such Limited Partner violates the terms of this Agreement, such Limited Partner shall not be entitled to claim that the Partnership or any of the other Partners are precluded, on the basis of any fiduciary or other duty arising in respect of such Limited Partner's status as such, from seeking any of the remedies permitted under this Agreement or applicable law.

(v) It is the intent of the parties that this Agreement shall not be construed for or against any party by reason of the authorship or alleged authorship of any provisions hereof or by reason of the status of the respective parties.

(vi) To the extent not prohibited by applicable law, each Partner (A) agrees that any action, suit or other proceeding arising out of or based upon this Agreement or any Schedule hereto, the subject matter hereof or thereof or the dealings of any Partner or the Partnership in connection therewith shall be brought only in a court of applicable jurisdiction located in the Cayman Islands or a state or Federal court in the State of Delaware in the U.S., (B)

irrevocably submits to the jurisdiction of the courts of the Cayman Islands and the state and Federal courts in the State of Delaware in the U.S. and (C) waives and agrees not to assert in any such action, suit or proceeding brought in any of the above named courts, any claim that such Partner is not subject personally to the jurisdiction of such court or that such action, suit or proceeding is brought in an inconvenient forum or that the venue is improper.

(h) Securities Act Matters. Each Partner understands that in addition to the restrictions on transfer contained in this Agreement, he must bear the economic risks of his investment for an indefinite period because the Partnership interests have not been registered under the Securities Act and, therefore, may not be sold or otherwise transferred unless they are registered under the Securities Act or an exemption from such registration is available.

(i) Tax Matters Partner. The "tax matters partner" (as defined in Section 6231 of the Code) of the Partnership shall be the General Partner (the "Tax Matters Partner"). The Tax Matters Partner shall not take any action in its capacity as such that is adverse to the holders of the Preferred Units or Investment Common Units without the prior written consent of the holders of a majority of the Units of such class.

(j) Contract Construction. Where the context of this Agreement so permits, use of masculine gender pronouns shall be deemed to mean or include the feminine or neuter gender, and vice versa, and use of the word "Person" shall be deemed to mean or include natural persons, entities, trusts, limited partnerships, exempted limited partnerships, limited liability companies, corporations, general partnerships, joint ventures, associations and governmental bodies and agencies. The invalidity or unenforceability of any one or more provisions of this Agreement shall not impair the enforceability of the other provisions. If one or more of the provisions of this Agreement shall for any reason be held to be unenforceable, whether due to public policy, equitable considerations, because such provisions are excessively broad as to scope, activity or subject, or otherwise, such provision or provisions shall be construed by the appropriate judicial body by limiting or reducing it or them so as

to be enforceable to maximum extent compatible with the applicable law as it shall then appear. References in this Agreement to sections of the Code or the ELP Law shall be deemed to refer to such sections as they may be amended after the date of this Agreement. Definitions in this Agreement apply equally to both the singular and the plural forms of the defined terms.

(k) Fiduciary Duty of Indemnified Parties. Notwithstanding anything to the contrary in this Agreement, to the extent that at law or in equity an Indemnified Party has duties (including fiduciary duties) and liabilities relating thereto to the Partnership or any Partner, such Indemnified Party acting under this Agreement shall, to the fullest extent permitted by law, not be liable to the Partnership or any Partner for breach of fiduciary duty for its good faith reliance on the provisions of this Agreement, and the provisions of this Agreement, to the extent that they restrict or eliminate the duties (including fiduciary duties) and liabilities relating thereto of an Indemnified Party to the Partnership or any Partner otherwise existing at law or in equity, are agreed by each Partner to so replace such other duties and liabilities of such Indemnified Party.

(l) Entire Agreement. This Agreement, the Schedules hereto, the related Subscription Agreements and any other written agreement between the General Partner, on its own behalf or on behalf of the Partnership, and any Limited Partner, shall constitute the entire agreement and understanding among the respective parties to such agreements with respect to the subject matter hereof and thereof. The Partners acknowledge that, notwithstanding any provision of this Agreement (including Paragraph 17) or of any Subscription Agreement, the General Partner, on its own behalf or on behalf of the Partnership, without any act, consent or approval of any other Partner or other Person, may enter into side letters or other writings to or with Ezbon, Blue Horizon or their respective direct or indirect transferees which have the effect of establishing rights under, or altering or supplementing the terms of, this Agreement or any Subscription Agreement ("Side Letters"). The Partners agree that any rights established, or any terms of this Agreement or any Subscription Agreement altered or supplemented, in a Side Letter to or with Ezbon, Blue Horizon or their direct or indirect transferees

shall for the purposes of this Agreement or any Subscription Agreement be valid, binding and enforceable in accordance with their terms as between Ezbon, Blue Horizon or any such transferee, the General Partner and the Partnership.

(m) Partnership Counsel. The General Partner has retained Proskauer Rose LLP and Maples and Calder in connection with the formation of the Partnership and the offering of the limited partner interests and may retain Proskauer Rose LLP and Maples and Calder as legal counsel in connection with the management and operation of the Partnership, including, without limitation, making, holding and disposing of investments. Neither Proskauer Rose LLP nor Maples and Calder will represent any Limited Partner or prospective limited partner of the Partnership, unless, subject to applicable laws, the General Partner and such Limited Partner or prospective limited partner otherwise agree and such Limited Partner or prospective Limited Partner separately engages Proskauer Rose LLP or Maples and Calder, as applicable, in connection with the formation of the Partnership, the offering of limited partner interests, the management and operation of the Partnership or any dispute that may arise between any Limited Partner, on the one hand, and the General Partner and/or the Partnership on the other hand (the "Partnership Legal Matters"). Each Limited Partner, if it wishes to obtain counsel on any Partnership Legal Matter, may retain its own independent counsel with respect thereto and shall pay all fees and expenses of such independent counsel.

(n) Good Faith Negotiation. Ezbon and Blue Horizon, on the one hand, and the General Partner and Dr. Harrison, on the other hand, each agree that if the other party desires to terminate the Partnership or such party's participation therein, it shall negotiate in good faith with respect thereto.

(o) No Duty to Account. Other than as expressly provided for, or prohibited otherwise, in this Agreement, each Partner may engage in any other business (including being a partner of other partnerships, whether general or limited) and shall not be restrained from engaging in any other activity nor forego or be required to account for any profits from any such business,

notwithstanding that such business may compete with the Partnership's business.

19. Definitions. The respective Paragraphs or other locations in which capitalized terms used in this Agreement are defined are set forth below opposite such terms:

Additional Units	7(g)
Agreement	Preamble
Anti-Money Laundering Laws	5(b)
ATC	1(c)
ATPharma	2(d)
Blue Horizon	4(d)(iv)
Board	2(n)
Buyer	12(g)(i)
Capital Account	6(b)
Carrying Value	7(b)(i)
Code	2(j)
Contingent Subscription	5(a)
Default Charge	5(c)
Default Notice	5(c)
Default Rate	5(c)
Defaulting Partner	5(c)
Dr. Harrison	2(b)
ELP Law	Preliminary Statement
Ezbon	2(m)
Ezbon/Blue Horizon Sale	12(h)
Finkelman	Preamble
First Closing Limited Partners	Preamble
Foreign Limited Partner	2(j)

Founder Common Units	6(c)
GAAP	16(e)
General Partner	Preamble
Gross Negligence	2(g)
Holders	12(h)
Hypothetical Tax Liability	8(a)
Incentive Common Units	6(c)
Incentive Percentage	8(d)(ii)(A)
Indemnified Party	15
Intermediary	1(c)
Investment Common Units	6(c)
Letter Agreement	2(k)
Limited Partner	Preamble
List of Partners	16(b)
Loss	7(b)(ii)
Management Agreement	2(c)
Management Company	2(b)
Management Fee	Management Agreement
Net Tax Obligation	7(f)(iii)
Offer	12(j)
Offered Units	12(j)
Operating Agreement	2(n)
Operating Company	2(l)
Operating Company Security	2(l)
Original Agreement	Preliminary Statement
Partner	Preamble

Partnership	Preliminary Statement
Partnership Information	16(d)(i)
Partnership Legal Matters	18(m)
Person	18(j)
PFIC	16(e)
Preferred Units	6(c)
Profit	7(b)(ii)
Project	2(n)
QEF Election	16(e)
Registration Statement	2(f)
Removal Event	4(c)
Securities Act	12(e)
Side Letters	18(l)
Subscription Agreement	1(e)
Subsidiary	2(d)
Tax Matters Partner	18(i)
Tracking Units	6(c)
Transfer	12(a)
Transfer Expenses	12(d)
Units	6(c)

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the undersigned have executed this Agreement as a deed on the day and year first above written.

GENERAL PARTNER

Executed as a deed by:

ATP III GP, Ltd.

By: _____
Name: Seth L. Harrison
Title: Director

WITHDRAWING LIMITED PARTNER

Executed as a deed by:

_____
Daniel P. Finkelman

In the presence of:

_____
Witness

APPLE TREE PARTNERS IV, L.P.

Limited Partner Signature Page

IN WITNESS WHEREOF, the undersigned has executed this First Amended and Restated Limited Partnership Agreement of Apple Tree Partners IV, L.P. as a deed.

Executed as a deed by:

Ezbon International Limited
By: ATP III GP, Ltd.,
attorney in fact pursuant to the power of attorney set forth in the Subscription Agreement with the Limited Partner dated November 1, 2012

By: _____
Seth L. Harrison
Director

In the presence of:

_____
Witness Rose Crone

Executed as a deed by:

Blue Horizon Enterprise Ltd.
By: ATP III GP, Ltd.,
attorney in fact pursuant to the power of attorney set forth in the Subscription Agreement with the Limited Partner dated November 1, 2012

By: _____
Seth L. Harrison
Director

In the presence of:

_____
Witness Rose Crone

SCHEDULE A

MANAGEMENT AGREEMENT

AGREEMENT dated November ___, 2012 (as amended from time to time, this "Agreement"), and effective as of November 1, 2012, between Apple Tree Venture Management, LLC, a Delaware limited liability company (the "Management Company"), and Apple Tree Consolidated, SPRL, a Belgium private limited liability company ("ATC").

In consideration of the premises and the agreements herein contained, and intending to be legally bound hereby, the parties hereto agree as follows:

1. Definitions. Capitalized terms used but not defined herein shall have the respective meanings given them in the First Amended and Restated Limited Partnership Agreement of Apple Tree Partners IV, L.P., a Cayman Islands exempted limited partnership, of even date herewith (as the same may be amended from time to time, the "Partnership Agreement").

2. Management Company Duties. The Management Company shall (i) identify prospective Operating Companies for ATC to invest in and (ii) provide assistance to ATC in evaluating investment opportunities in prospective and existing Operating Companies, it being the expectation that such Operating Companies will primarily consist of the ownership by ATC (either directly as a division, or indirectly through one or more entities wholly owned by ATC but disregarded for U.S. federal income tax purposes) of pharmaceutical, medical device and other medically-related operating assets. Notwithstanding the services provided by the Management Company, the Management Company shall not be authorized to manage the affairs of, act in the name of, or bind ATC.

3. Payment of Expenses. The Management Company agrees to pay (a) all compensation of Dr. Harrison and his administrative assistant in their capacities as employees of the Management Company; and (b) a pro rata share of ATC's facilities and other overhead expenses, based on the portion of such facilities used by the Management Company. ATC shall pay all other expenses properly chargeable to its affairs which are not reimbursed by Operating Companies.

4. Management Fee. ATC shall pay the Management Company a management fee (the "Management Fee") each year for the services to be provided hereunder, in the amount of US $2 million or such greater amount as may be approved by the Board; provided, however that the Management Fee for the first year shall be US $1,694,000 or such greater amount as may be approved by the Board. The Management Fee for each year shall be reduced (but not below zero) by (i) any director's fees, consulting fees or other remuneration paid to the Management Company, the members and employees of the Management Company, the General Partner, Dr.

Harrison or any of their respective affiliates (other than the Partnership or ATC) in cash, securities or otherwise for services rendered to Operating Companies; provided, however, that no remuneration shall be paid to any such Person other than in cash without the prior written consent of the holders of a majority of the Preferred Units. Notwithstanding the foregoing, only the amount of net after tax profit attributable to fees or other remuneration received by ATPharma for services rendered to an Operating Company, rather than the gross amount thereof, reduced by any ATPharma governance-related costs that are not borne by any such Operating Company, shall reduce the Management Fee; provided, however, that this sentence shall only apply if and to the extent that such fees or other remuneration were covered by a budget approved by the holders of a majority of the Preferred Units or the Board; and provided further, however, that such net after tax profit shall be limited to the amount necessary to comply with applicable tax rules governing transfer pricing between related entities. Any securities or other property received in kind (with the prior written consent of the holders of a majority of the Preferred Units) shall be valued at the time they are reduced to cash or cash equivalents for purposes of the foregoing reduction to the Management Fee. The Management Fee for each year shall also be reduced (but not below zero) for "deemed contributions" as provided in Part B of Schedule D of the Partnership Agreement. Payments of the Management Fee shall be made in advance at the beginning of each calendar quarter in each year in an amount determined by the Management Company but not more than 25% of the maximum aggregate amount of the Management Fee for such year. Notwithstanding the preceding sentence, the first payment shall be due upon the date of this Agreement and shall be for the pro rata amount due until the beginning of the next succeeding calendar quarter. In no event shall fees or other remuneration referred to in the second sentence of this Paragraph 4 be paid in any calendar quarter in an aggregate amount that would exceed the amount of the next succeeding quarterly installment of the Management Fee. The amount of the fees and other remuneration paid or remitted to the Management Company, the General Partner, Dr. Harrison or any of their affiliates from Operating Companies shall be computed for each year, and any net amount due ATC from the Management Company or the Management Company from ATC shall be remitted within 30 days after such computation. If in any year any reductions described above would exceed, individually or collectively, the Management Fee otherwise payable, the excess amount of such reductions shall be carried forward on a year-by-year basis.

5. Term of Agreement. This Agreement shall terminate upon the earlier of (i) the completion of liquidation of ATC and (ii) the removal of the General Partner pursuant to Paragraph 4 of the Partnership Agreement; provided, however, that the Management Fee shall continue to be paid for an additional 45 days following any such removal of the General Partner.

6. Termination and Amendment. This Agreement shall not be terminated prior to the time set forth in Paragraph 5 or amended, and none of its provisions shall be waived, in each case without the written consent of the parties hereto and the holders of a majority of the Preferred Units.

7. Independent Contractor. The relationship of the Management Company to ATC is that of an independent contractor and neither this Agreement nor the services to be rendered

hereunder shall for any purpose whatsoever or in any way or manner create any employer-employee relationship between the parties.

8. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware, without regard to conflict of law principles.

9. Counterparts. This Agreement may be executed in counterparts, each of which, when so executed and delivered, shall be deemed an original instrument, but all of which together shall constitute a single agreement.

10. Severability. Each provision of this Agreement shall be considered severable and if for any reason any provision or provisions herein are determined to be invalid, unenforceable or illegal under any existing or future law, such invalidity, unenforceability or illegality shall not impair the operation of or affect those provisions of this Agreement which are valid, enforceable and legal.

IN WITNESS WHEREOF, the undersigned have executed this Agreement on the date first above written.

APPLE TREE CONSOLIDATED, SPRL

By: _____
Seth L. Harrison
Title: _____

APPLE TREE VENTURE MANAGEMENT, LLC

By: _____
Seth L. Harrison
Managing Member

Proprietary and Confidential

SCHEDULE B

LETTER AGREEMENT

Apple Tree Partners IV, L.P.
c/o Maples Corporate Services Limited
P.O. Box 309, Ugland House
Grand Cayman, KY1-1104
Cayman Islands

November 1, 2012

To the holders of Preferred Units:

Reference is made to the First Amended and Restated Limited Partnership Agreement of Apple Tree Partners IV, L.P. (the "Partnership"), of even date herewith (as amended from time to time, the "Partnership Agreement"). Capitalized terms used but not defined herein shall have the respective meanings given them in the Partnership Agreement. When the context of this letter agreement so requires, use of masculine gender pronouns shall be deemed to mean or include the feminine or neuter gender, and vice versa.

In consideration of your subscription for an interest in the Partnership as a Limited Partner, the undersigned hereby represents, warrants and agrees that, so long as ATP III GP, Ltd. is the general partner of the Partnership and you are not a Defaulting Partner:

1. So long as the Management Agreement is in effect, any director's fees, consulting fees or other remuneration paid to the General Partner, the Management Company, the members and employees of the Management Company, the undersigned or any of their respective affiliates (other than the Partnership or ATC) in cash, securities or otherwise by an Operating Company for services rendered to it shall be remitted to the Management Company; provided, however, that no remuneration shall be paid to any such Person other than in cash without the prior written consent of the holders of a majority of the Preferred Units. Notwithstanding the foregoing, only the amount of net after tax profit attributable to fees or other remuneration received by ATPharma for services rendered to an Operating Company, rather than the gross amount thereof, reduced by any ATPharma governance-related costs that are not borne by such Operating Company, shall be remitted to the Management Company; provided, however, that this sentence shall only apply if and to the extent that such fees or other remuneration were covered by a budget approved by the holders of a majority of the Preferred Units or the Board; and provided further, that such net after tax profit shall be limited to the amount necessary to comply with applicable tax rules governing transfer pricing between related entities.

2. So long as ATC continues to make investments, all investment opportunities in privately-held companies which come to his attention (including but not limited to follow-on investment opportunities), except for such opportunities which he believes in good faith are not within the purpose of or otherwise appropriate for ATC, shall be made available to ATC. Without the prior written approval of the holders of a majority of the Preferred Units, neither he nor any account (other than ATC) which he controls or in which he has a beneficial interest (unless he has no control) may (a) purchase a security of an Operating Company, (b) invest in or manage a private life science venture capital fund (except for preexisting investments in and management obligations to such funds on the date hereof), or (c) invest in any opportunity which has been presented to and rejected by ATC.

3. Without the prior written approval of the holders of a majority of the Preferred Units, neither he nor any account which he controls or in which he has a beneficial interest (unless he has no control) may borrow money from the Partnership or ATC.

4. He shall devote substantially all of his business time to the affairs of the Partnership, ATC, the Operating Companies, Apple Tree Partners I, L.P. ("ATP I"), Apple Tree Partners II, L.P. ("ATP II") and Apple Tree Partners II – Annex, L.P. ("ATP II – Annex") until the earlier of July 1, 2021 or such time as the audited value of the Partnership (including the value of prior dividends and other distributions) is at least $7.5 billion, and thereafter he shall devote such of his business time to the affairs of the Partnership and ATC as is reasonably required to manage the affairs thereof. So long as the terms of the preceding sentence remain applicable, he shall not permit ATP I, ATP II or ATP II-Annex to invest, after the date of this letter agreement, in entities that were not portfolio companies (or their successors or affiliates) of such partnerships on such date.

5. Without the approval of the holders of a majority of the Preferred Units, he shall not voluntarily permit any other Person to control the General Partner.

The terms and provisions of this letter agreement may be waived, modified or amended only by a writing signed by the undersigned and with the written consent of the holders of a majority of the Preferred Units.

This letter agreement shall be governed by and construed in accordance with the laws of the Cayman Islands, without regard to conflict of law principles.

Very truly yours,

Executed as a deed by:

_____
Seth L. Harrison

In the presence of:

_____
Witness

SCHEDULE C

BUDGETING PROCESS

At the beginning of each fiscal year, the Board will review and approve the overall annual budgets for the Partnership and ATC and the budget for each Project that has been approved by the Board. This approved budget will then become the basis for a quarterly rolling forecast process that will result in the quarterly financial reports referred to below. This rolling forecast process will be driven by Finance with the participation of operating management (Commercial and Research & Development). Revenue and expense budgets, and other items affecting cash flow, will be updated as part of this rolling forecast process. Management will implement a system of spending and other controls designed to ensure that Project budgets are not exceeded without further Board approval. Any new Projects that the General Partner recommends to be added to the ATC portfolio, and any discretionary extraordinary expense, will both require approval by the Board and a budget established (and approved by the Board) before spending can commence.

The General Partner will issue a financial report to the holders of the Preferred Units at least every calendar quarter, on or before the tenth working day of the month following each quarter (or other period) end, in a format to be agreed upon between the General Partner and the holders of a majority of the Preferred Units. This financial report will cover all entities within the Partnership structure, and will include Project income and expenses and operating costs, along with at least the following:

- Profit and loss and cash flow statements, in total and by major Project, showing actual versus budgeted results for the quarter (or other period) then ended and including explanations of major variances to budget. The report will also include a reconciliation of total expenditures and cash flows from inception through the reporting date.

- Detailed budget by major Project by quarter (or other period) for the next twelve months, including operating income and expenses by major category, and other items affecting cash flow (capital expenditures, upfront / milestone payments, deposits / advances).

- Summary budget by major Project for each of the following two years, including operating income and expenses, and other items affecting cash flow.

In addition, the General Partner will present a schedule showing anticipated capital calls for the next four quarters and subsequent two years, reconciled to the detailed and summary cash flow budgets.

In addition to providing the quarterly (or other period) financial report, the General Partner will present in person the Partnership's financial results and budget to the holders of the Preferred Units twice per year, generally in January and July. The presentation will be made at a time and place to be decided by the holders of a majority of the Preferred Units and agreed with the General Partner. In addition to presenting the most recent quarterly (or other period) financial report, the General Partner will present additional material to provide the holders of the Preferred Units with a more complete understanding of the state of the Partnership's current operations and planned achievement of its goals. Members of the General Partner's core management team will be made available to assist in the presentation as required.

SCHEDULE D

FINANCING OF DR. HARRISON'S CAPITAL CONTRIBUTIONS

For the first $15 million of capital calls to Dr. Harrison in respect of his Preferred Units, 80% shall be funded from capital provided by Ezbon to him pursuant to an interest-free, limited-recourse loan (the "Loan Arrangement"), as described in Part A below, and 20% shall be funded by him as provided in Part B below. Any additional capital calls to Dr. Harrison in respect of his Preferred Units in excess of $15 million shall be funded from capital provided by Ezbon pursuant to the Loan Arrangement. Notwithstanding the foregoing, no additional capital shall be funded under the Loan Agreement if the General Partner has been removed pursuant to Paragraph 4(a) of the Agreement. Dr. Harrison's obligations under this Schedule D shall be binding upon his heirs and legal representatives.

Part A: Loan Arrangement.

Each portion of any capital call to Dr. Harrison to be funded through the Loan Arrangement shall be satisfied through a loan from Ezbon. Amounts shall be repaid under the Loan Arrangement as follows:

1. A pro rata portion of distributions to Dr. Harrison in respect of his Preferred Units (other than Tax Distributions and distributions pursuant to Paragraph 4(d)(iv) of the Agreement), based on the then outstanding principal balance under the Loan Arrangement and the amount of capital for such Preferred Units funded by him in cash or by reductions in the Management Fee, shall be applied against the loans. By way of example only, if $15 million had been called from Dr. Harrison in total in respect of his Preferred Units, of which Dr. Harrison had funded $3 million as provided in Part B below and $12 million had been funded under the Loan Arrangement and remained outstanding, then 80% of amounts distributable to Dr. Harrison in respect of his Preferred Units (other than Tax Distributions) would be applied against the loans.

2. 100% of all other distributions, other than Tax Distributions and net of any other tax liabilities arising from such distributions, to Dr. Harrison from the Partnership, shall be applied against the loans.

3. 20% of the first $20 million of "after-tax" distributions to Dr. Harrison from Apple Tree Partners I, L.P. ("ATP I"), Apple Tree Partners II, L.P. ("ATP II") and Apple Tree Partners II – Annex, L.P. ("Annex") after the date of the Agreement, and thereafter 80% of any additional "after-tax" distributions to Dr. Harrison from ATP I, ATP II and Annex after the date of the Agreement, but only to the extent necessary to cause cumulative repayments of amounts borrowed under the Loan Arrangement to equal

$12 million, shall be applied against the loans. For purposes of this Section 3, "after-tax" distributions shall mean the gross amount of any such distributions received by Dr. Harrison, reduced by his tax liability in respect thereof (or the allocations giving rise to such distributions), calculated in a manner consistent with the determination of Hypothetical Tax Liability pursuant to Paragraph 8(a) of the Agreement and after any in-kind distributions have been reduced to cash.

4. If any distribution (whether from ATP I, ATP II, Annex or the Partnership) is made to Dr. Harrison in kind rather than in cash, repayment of the Loan Arrangement shall be due after such distribution has been reduced to cash, based on the after-tax amount so realized (calculated based on the product of the taxable gain, if any, so realized and the highest applicable marginal federal and state tax rates applicable to the character of such gain). In the case of any in-kind distributions of publicly-traded securities to Dr. Harrison from ATP I, ATP II, Annex and the Partnership, Dr. Harrison shall, as soon as practicable and legally permissible, put up to 20%, 80% or 100%, as required and as applicable based on Section A.1-3 above, of the shares received from such distribution into a Rule 10b5-1 Distribution Plan (the "Plan") that is designed to effectuate in a market-reasonable legal manner the sale of such shares at a price that is at or above the distribution price of such shares. Dr. Harrison shall cause his attorneys to deliver promptly to Ezbon a copy of the relevant portions of the Plan. If there are no sales of shares pursuant to the Plan, Dr. Harrison and Ezbon shall confer reasonably about the next steps to cause such shares to be liquidated.

Any failure or refusal by Ezbon to fund the Loan Arrangement may, at the sole discretion of the General Partner, subject Ezbon to the imposition of a Default Charge under the Agreement. The failure by Dr. Harrison to satisfy a capital call in respect of his Preferred Units due to the failure by Ezbon to fund the Loan Arrangement shall not result in Dr. Harrison being deemed to be a Defaulting Partner or otherwise subject to Dr. Harrison to a Default Charge.

Part B: Deemed Contributions.

With respect to the portion of any capital call to Dr. Harrison in respect of his Preferred Units that are not funded through the Loan Arrangement, 20% shall be made in cash and the balance shall be deemed to have been contributed by Dr. Harrison. All such deemed contributions shall reduce Dr. Harrison's unfunded Subscription and shall otherwise be treated as a capital contribution, except that such amounts shall not increase Dr. Harrison's Capital Account balance. Payments of the Management Fee shall be reduced as necessary until cumulative reductions in the Management Fee equal the cumulative deemed contributions by Dr. Harrison pursuant to this Part B. Dr. Harrison shall be entitled to receive distributions in respect of his Preferred Units as if all capital calls in respect of such Preferred Units had been contributed by Dr. Harrison in cash, except such distributions shall be limited, pursuant to the principles set forth in Paragraph 7(g), to the extent necessary to ensure that Dr. Harrison's interest in the Partnership by reason of such deemed contributions is respected as a "profits

interest" for United States Federal income tax purposes. If the General Partner is removed as the general partner of the Partnership pursuant to Paragraph 4(a) of the Agreement, then to the extent the cumulative deemed contributions exceed the cumulative reductions in the Management Fee (including any such reductions occurring within 45 days after the removal date), 95% of such excess amount shall be deemed to be a loan under the Loan Arrangement.

Part C: Tax Gross Up Provisions

If any payment to Ezbon under the Loan Arrangement is subject to a U.S. federal, state or local tax (whether imposed by withholding or otherwise), the amount of such payment shall be increased by the Gross Up Amount with respect to such payment. For these purposes, the "Gross Up Amount" with respect to any payment shall equal the amount of increase necessary so that after any such deduction or withholding in respect of taxes has been made (including such deductions and withholdings applicable to additional sums payable under this paragraph), Ezbon receives an amount equal to the amount it would have received had no such deduction or withholding in respect of taxes been made. Ezbon shall each provide to Dr. Harrison (or his heirs or legal representatives) a properly completed Form W-8(BEN), and shall provide all other withholding certificates and other documentation, and shall take all reasonable actions necessary to minimize the amount of U.S. federal, state and local taxes imposed on amounts due in respect of the Loan Arrangement.

Notwithstanding the foregoing, Gross Up Amounts shall not include any additional tax liability, deductions or withholdings resulting from (w) any withholding taxes pursuant to Sections 1471 through 1474 of the Code to the extent a refund, tax credit or tax deduction is otherwise available (without regard to whether Ezbon or their respective beneficial holders claim such refunds, tax credits or tax deductions), (x) any activities of Ezbon or its affiliates (including any such activities that cause Ezbon to have a permanent establishment in the United States) apart from Ezbon's investment in the Partnership and participation in the Loan Arrangement, (y) Ezbon's failure to comply with the requirements of the previous sentence, and (z) Ezbon becoming a "United States person" within the meaning of Section 7701 of the Code and the Treasury Regulations promulgated thereunder (or electing to be taxed as such), becoming subject to tax by operation of Section 871(a)(2) of the Code and the Treasury Regulations promulgated thereunder, or otherwise becoming subject to any similar classification for purposes of U.S. federal, state or local taxes. Ezbon shall, as soon as reasonably practicable, provide Dr. Harrison with such information as is reasonably necessary for Dr. Harrison to determine the Gross Up Amount with respect to Ezbon. In addition, with respect to a tax imposed on net income, the Gross Up Amount shall only be equal to the excess (if any) of (i) the amount of such tax over (ii) the value of all refunds, tax credits and tax deductions to which Ezbon or its respective beneficial holders are entitled in respect of any amount to be repaid under the Loan Arrangement (without regard to whether Ezbon or its beneficial holders claim such refunds, tax credits or tax deductions), in each case, including such taxes on, and refunds, tax credits or tax deductions arising from, the Gross Up Amount.

Without limiting the foregoing, at Dr. Harrison's request, the parties shall use commercially reasonable efforts to structure the Loan Arrangement in a tax efficient manner, including in a manner that minimizes any Gross Up Amount due pursuant to this Part C.

SCHEDULE E

UNIT REDUCTION SCHEDULE

The table below sets forth the number of authorized Incentive Common Units and Founder Common Units at various Preferred Unit capital contribution levels. Reductions will be made on a pro rata basis for each incremental $10 million of Preferred Unit capital contributions; provided, however, that no reductions shall be made until the aggregate Preferred Unit capital contributions reach $100 million; and provided further, that no further reductions to the authorized Incentive Common Units or authorized Founder Common Units shall be made after the aggregate Preferred Unit capital contributions reach $1 billion and $300 million, respectively.

Preferred Unit Capital Contributions	Authorized Incentive Common Units	Authorized Founder Common Units
$ 100,000,000	158,823	225,000
140,000,000	146,512	197,561
180,000,000	134,483	171,429
220,000,000	122,727	146,512
260,000,000	111,236	122,727
300,000,000	100,000	100,000
440,000,000	89,011	100,000
580,000,000	78,261	100,000
720,000,000	67,742	100,000
860,000,000	57,447	100,000
1,000,000,000	47,368	100,000
1,100,000,000	47,368	100,000
1,200,000,000	47,368	100,000
1,300,000,000	47,368	100,000
1,400,000,000	47,368	100,000
1,500,000,000	47,368	100,000

Distributions pursuant to Paragraph 8(d)(ii) are apportioned among the holders of Units based, in part, on the number of authorized Incentive Common Units and Investment Common Units, which are determined in part based on the amount of capital contributions in respect of Preferred Units at the time of distribution. The following tables set forth two examples of distributions pursuant to Paragraph 8(d)(ii). The assumptions for both examples are the same, except that in example 1, 100% of the authorized number of Incentive Common Units are outstanding at all relevant times, and in example 2, 40% of the authorized number of Incentive Common Units are outstanding at all relevant times. These examples are for illustrative purposes only, and the actual apportionment of distributions as of any time will be governed by the terms of the Agreement.

Example 1: All authorized Incentive Common Units are outstanding at all relevant times:

Preferred Unit Capital	Authorized Number of Common Units			Oustanding Incentive	8(d)(ii)(A) Incentive Common	8(d)(ii)(B) Class of Commcn Units		Total Sharing of 8(d)(ii) Distributions Class of Common Units		
Contributions	Investment	Incentive	Founder	Common Units	Units	Investment	Founder	Incentive	Investment	Founder
$100,000,000	900,000	158,824	225,000	158,824	15.00%	80.00%	20.00%	15.00%	68.00%	17.00%
140,000,000	900,000	146,512	197,561	146,512	14.00%	82.00%	18.00%	14.00%	70.52%	15.48%
180,000,000	900,000	134,483	171,429	134,483	13.00%	84.00%	16.00%	13.00%	73.08%	13.92%
220,000,000	900,000	122,727	146,512	122,727	12.00%	86.00%	14.00%	12.00%	75.68%	12.32%
260,000,000	900,000	111,236	122,727	111,236	11.00%	88.00%	12.00%	11.00%	78.32%	10.68%
300,000,000	900,000	100,000	100,000	100,000	10.00%	90.00%	10.00%	10.00%	81.00%	9.00%
440,000,000	900,000	89,011	100,000	89,011	9.00%	90.00%	10.00%	9.00%	81.90%	9.10%
580,000,000	900,000	78,261	100,000	78,261	8.00%	90.00%	10.00%	8.00%	82.80%	9.20%
720,000,000	900,000	67,742	100,000	67,742	7.00%	90.00%	10.00%	7.00%	83.70%	9.30%
860,000,000	900,000	57,447	100,000	57,447	6.00%	90.00%	10.00%	6.00%	84.60%	9.40%
1,000,000,000	900,000	47,368	100,000	47,368	5.00%	90.00%	10.00%	5.00%	85.50%	9.50%
1,100,000,000	900,000	47,368	100,000	47,368	5.00%	90.00%	10.00%	5.00%	85.50%	9.50%
1,200,000,000	900,000	47,368	100,000	47,368	5.00%	90.00%	10.00%	5.00%	85.50%	9.50%
1,300,000,000	900,000	47,368	100,000	47,368	5.00%	90.00%	10.00%	5.00%	85.50%	9.50%
1,400,000,000	900,000	47,368	100,000	47,368	5.00%	90.00%	10.00%	5.00%	85.50%	9.50%

1,500,000,000	900,000	47,368	100,000	47,368	5.00%	90.00%	10.00%	5.00%	85.50%	9.50%

Example 2: 40% of authorized Incentive Common Units are outstanding at all relevant times.

Preferred Unit Capital	Authorized Number of Common Units			Oustanding Incentive	8(d)(ii)(A) Incentive Common	8(d)(ii)(B) Class of Common Units		Total Sharing of 8(d)(ii) Distributions Class of Common Units		
Contributions	Investment	Incentive	Founder	Common Units	Units	Investment	Founder	Incentive	Investment	Founder
$100,000,000	900,000	158,824	225,000	63,530	6.00%	80.00%	20.00%	6.00%	75.20%	18.80%
140,000,000	900,000	146,512	197,561	58,605	5.60%	82.00%	18.00%	5.60%	77.41%	16.99%
180,000,000	900,000	134,483	171,429	53,793	5.20%	84.00%	16.00%	5.20%	79.63%	15.17%
220,000,000	900,000	122,727	146,512	49,091	4.80%	86.00%	14.00%	4.80%	81.87%	13.33%
260,000,000	900,000	111,236	122,727	44,494	4.40%	88.00%	12.00%	4.40%	84.13%	11.47%
300,000,000	900,000	100,000	100,000	40,000	4.00%	90.00%	10.00%	4.00%	86.40%	9.60%
440,000,000	900,000	89,011	100,000	35,604	3.60%	90.00%	10.00%	3.60%	86.76%	9.64%
580,000,000	900,000	78,261	100,000	31,304	3.20%	90.00%	10.00%	3.20%	87.12%	9.68%
720,000,000	900,000	67,742	100,000	27,097	2.80%	90.00%	10.00%	2.80%	87.48%	9.72%
860,000,000	900,000	57,447	100,000	22,979	2.40%	90.00%	10.00%	2.40%	87.84%	9.76%
1,000,000,000	900,000	47,368	100,000	18,947	2.00%	90.00%	10.00%	2.00%	88.20%	9.80%
1,100,000,000	900,000	47,368	100,000	18,947	2.00%	90.00%	10.00%	2.00%	88.20%	9.80%
1,200,000,000	900,000	47,368	100,000	18,947	2.00%	90.00%	10.00%	2.00%	88.20%	9.80%
1,300,000,000	900,000	47,368	100,000	18,947	2.00%	90.00%	10.00%	2.00%	88.20%	9.80%
1,400,000,000	900,000	47,368	100,000	18,947	2.00%	90.00%	10.00%	2.00%	88.20%	9.80%
1,500,000,000	900,000	47,368	100,000	18,947	2.00%	90.00%	10.00%	2.00%	88.20%	9.80%

EXHIBIT G

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IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

ATP III GP, LTD., in its capacity as General Partner of ATP Life Science Ventures, L.P., Plaintiff, v. RIGMORA BIOTECH INVESTOR ONE LP and RIGMORA BIOTECH INVESTOR TWO LP, Defendants.	)	C.A. No. 2025-0607-KSJM **REDACTED PUBLIC VERSION** **EFILED: September 16, 2025**

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PRELIMINARY STATEMENT

ATP Life Science Ventures, L.P. (the "Fund" or "Partnership") brought this action because it had no choice. Its primary funders—limited partners controlled by the family office of Dmitry Rybolovlev ("Rigmora")—brought the Fund's portfolio companies to a grinding halt despite owing more than [redacted] in budgeted capital commitments. This funding freeze immediately put seven pre-clinical companies at risk of insolvency, forcing sweeping layoffs and disrupting years of research progress and pre-clinical drug development. At the time, Rigmora offered no credible reasons for its actions. Rigmora maintained that it stood ready to meet its funding obligations while it couched its instruction that the Fund cease investment in the seven companies with remaining budget commitments in pretextual excuses and refused to engage in discussions for new budgets unless the Fund blindly followed those instructions.

Discovery revealed that Rigmora's actions were part of a long-planned strategy to improve Rigmora's liquidity by shifting investment away from early-stage biotechnology venture capital in favor of investments that would generate near-term cash. This strategy was driven by both a "liquidity crisis" at Rigmora and a downturn in the biotech capital markets that began in 2022 and largely continues to this day, limiting opportunities for profit-generating "exits" to clinical-stage companies with established clinical "proof of concept." Because Rybolovlev's

wealth is almost entirely invested in illiquid assets, his appetite for further investment in the highly-speculative field of biotech venture capital was chilled by the downturn in the biotech investing environment.

Rigmora's strategic desire to pivot from early-stage biotech venture capital investing was at odds with both what Rigmora itself characterized as its "guaranteed" funding commitments to the Fund and its contractual obligation to negotiate in good faith to establish new budgets for portfolio companies that were facing near-term "cash out" dates. It also put at risk Rigmora's financial interests in the Fund's most valuable assets, which would be subject to a Default Charge in the event that Rigmora was deemed to be a Defaulting Partner under the terms of the Parties' Amended and Restated Limited Partnership Agreement ("LPA").

Rigmora's defense to avoid its existing [redacted] in budgeted capital commitments depends on two arguments: first, that Rigmora's capital commitments to the Fund were capped at [redacted], making any subsequent investment in the Fund "voluntary," and second, that its obligation to meet capital commitments to the seven pre-clinical companies with remaining budgets was excused because those companies lacked a path to financial success.

Rigmora raised its argument regarding capital commitments for the first time in October 2024, amid litigation against ATP regarding Rigmora's attempt to transfer from the Fund its interest Braeburn Inc., the Fund's only commercial-stage

company. By arguing that its capital contributions were "voluntary" and not "guaranteed" because Rigmora had fulfilled its existing capital subscription, Rigmora sought to avoid any finding of a default, which in turn would avoid the question of whether ATP's right to impose a Default Charge was "global," meaning that it could be assessed against any and all of Rigmora's interests, or whether it was limited to Rigmora's interest in the specific investment "pool" where the funding default occurred. As demonstrated below, Rigmora's subscription argument is belied by the express language of both its SAs with the Fund and the LPA itself (as amended). It is also squarely at odds with the facts: internal communications from as recently as May 2025 confirm that Rigmora understood its capital commitments were well in excess of [redacted], and indeed as much as [redacted].

If Rigmora's subscription argument fails, it shifts to an attack on the validity of the Fund's interest in meeting its Series A funding commitments to the seven pre-clinical companies with remaining budgets (which Rigmora calls the "Early-Stage Companies"). Rigmora couches its desire to avoid further investment in the language of economic rationality, arguing that it lacks faith in the scientific and economic viability of these companies because they "missed milestones" described in four-year-old investment memoranda generated at the time of initial budget approvals and have not generated sufficient investment interest from third parties. In so arguing, Rigmora willfully ignores the express language of the LPA that

delegates management of the portfolio to ATP, exclusively, and limits Rigmora's approval authority to the consideration of new budgets. Rigmora cites no textual support for its argument that the LPA permits it to avoid approved budgets or hold new budget approvals hostage to ATP's commitment to wind down or liquidate the companies holding approved budgets. The LPA grants Rigmora no such powers, and the Fund calls on the equitable powers of this Court to enforce the express and implied provisions of the LPA so that years of valuable research and biopharmaceutical investment and development are not lost.

Since 2019, the Fund's assets, liabilities, and other economics, including its portfolio companies, have been divided into separate "pools." There are presently five active pools including, as relevant here, Pools ATP V-1, V-2, and V-3. When the LPs commit capital, they commit it to a specific pool, and when ATP calls capital, it's called for specific companies in specific pools.

Rigmora repeatedly endorsed its faith in the Fund and Harrison. For example, in September 2020 Rigmora committed an additional [redacted] to Pools ATP V-1 and ATP V-2 with Amendment 17. And in 2021, Rigmora made additional commitments, including over [redacted] to a Pool ATP V-3. Rigmora regularly approved budgets against these commitments.

Beginning in early 2022, Rigmora began to backpedal its capital commitments while seeking to extract distributions from the Fund. Internally, Yuri Bogdanov,

who now runs Rigmora, told the Rigmora investment team that the company was in a "liquidity crisis" and recommended "drastically reducing investments in biotech." ATP did everything in its power to work with Rigmora, including minimizing portfolio companies' cash on hand and only calling capital necessary to fund their immediate ongoing operations.

Nonetheless, at the end of 2024 Rigmora imposed pretextual due diligence procedures, effectively blocking new budget approval. These tactics culminated in a May 15, 2025 email from Bogdanov refusing to consider or fund new budgets unless ATP wound down seven so-called "Early-Stage Companies" in Pools ATP V-1 and V-2.

On May 30, 2025, ATP issued capital calls for several outstanding budgets and brought suit to enforce the LPA as set forth in further detail below.

First, Rigmora has breached its duties under applicable Cayman law to exercise its discretion to approve budgets honestly, rationally, and in good faith. The Court should therefore declare that Rigmora has breached the LPA by refusing to consider budgets, violated its implied duties to engage in the budget approval process in good faith, and waived its right to approve budgets. In the alternative, if the Court does not find that Rigmora waived its right to approve budgets, it should order Rigmora to specifically perform its obligation to approve budgets in good faith.

Second, Rigmora has breached its express duties under the LPA to meet capital calls for the seven pre-clinical companies with approved budgets. Rigmora argues that it has exhausted its capital commitments under the LPA because it previously committed [redacted] to the Fund and has now contributed well over that amount. But Rigmora ignores that, under the plain terms of the LPA and its Amendments, (1) it committed to contribute capital not to the Partnership generally but to specific pools, (2) capital contributions are "[redacted]," and (3) it has remaining capital commitments to Pools V-1 and V-2. Its claims that further funding is unwarranted because these companies have purportedly missed milestones finds no support in the LPA.

Accordingly, as set forth in the Pre-Trial Order, ATP seeks a declaration that Rigmora anticipatorily and actually breached its duty under the LPA to contribute capital and an order requiring Rigmora to specifically perform its duty to answer capital calls.

ATP also seeks a declaration that by virtue of its contractual and common law breaches Rigmora has waived its contractual right to approve budgets freeing ATP to call capital necessary to fund the portfolio companies.

BACKGROUND

A. The Partnership Establishes Itself To Promote Scientific Advancement And Generate Profits For Investors.

In 2010, Dr. Seth Harrison, who trained as a surgeon before embarking on a 35-year career as a venture capitalist in the biotechnology field, met Dr. Dmitry Rybolovlev, a Russian-born Cypriot national. PTO ¶¶ 15, 21–22. The two subsequently established ATP Life Science Ventures, L.P., a Cayman Islands exempted limited partnership. PTO ¶ 23.[1] On November 1, 2012, the Parties entered into the First Amended and Restated Limited Partnership Agreement (the "LPA"), which governs the Partnership's operations. PTO ¶¶ 24–25.

The Partnership was structured with ATP III GP, Ltd. ("ATP"), a Cayman Islands exempted company owned and controlled by Harrison, serving as the General Partner. PTO ¶¶ 13, 15. The largest limited partners are Defendants Rigmora Biotech Investor One LP and Rigmora Biotech Investor Two LP, both ultimately owned by Rybolovlev's family trust. PTO ¶¶ 17–20. The Rigmora entities are the successors-in-interest to the original Limited Partners Blue Horizon Enterprise Ltd. and Ezbon International Ltd. (together with both Rigmora entities unless otherwise noted, "Rigmora"). PTO ¶ 18.

[1] The Fund remains an Exempt Limited Partnership under the Exempted Limited Partnership Act (2025 Revision). JX-1 (LPA) at -249; JX-1574 (Bloch Opening) ¶ 15.

The LPA establishes the Partnership's core mission: "[redacted]" JX-2 (LPA Am. 1) ¶ 1(c). It invests in companies pursuing biopharmaceutical research to advance scientific discovery while generating substantial returns. PTO ¶ 14.

The Fund has distributed approximately [redacted] to Rigmora since inception, PTO ¶ 46, and the total value of the fund was approximately [redacted] before Rigmora's repudiation of funding commitments. JX-1293 at -689.[2] These substantial returns demonstrate both the Partnership's effectiveness in identifying and nurturing promising biopharmaceutical companies and the significant value created by Harrison's management.

B. The LPA Sets Forth Procedures For Mandatory Capital Commitments And Budget Approvals.

1. Rigmora's Initial Capital Commitments

Rigmora, through its predecessors in interest, became an LP of the Fund on November 1, 2012. It simultaneously made its initial capital commitment of [redacted], agreeing to contribute that amount pursuant to the LPA and (subsequently) signing Subscription Agreements ("SAs") that divided its capital commitment between the two Rigmora predecessor entities Blue Horizon [redacted] JX-

[2] All pincites herein are to the last three Bates digits.

212 at -173, and Ezbon [redacted] JX-213 at -240. The capital contributions set forth in the SAs were specifically made subject to the terms of the LPA, and Rigmora also agreed to provide "such other capital contributions and payments" as were provided in the LPA. JX-212, JX-213 ¶ 1.

In turn, Paragraph 5 of the LPA sets forth the GP's right to call capital and the obligations of the LPs with respect to capital contributions. Paragraph 5(a)(i) requires Partners to contribute capital when requested by the GP in an amount up to their subscription amounts. JX-1 ("LPA") ¶ 5(a)(i).

Paragraph 5(a)(ii), as amended, authorizes the GP to call capital under seven circumstances, including funding of partnership expenses, management fees, reserves, and, most importantly, investments in Projects. *See* JX-4 (LPA Am. 3) at -358. As relevant here, Subparagraph 5(a)(ii)(E) provides, "[redacted]," the GP "[redacted]." *Id.*[3] The LPA thus gave Rigmora, as holders of a majority of the

[3] Amendment 3 originally provided for an ATC board of directors and made certain distinctions depending on whether a project was "being run through ATC" or not. *Id.* at -357–58. Amendment 14 excised ATC, and with it the ATC board of directors, from the LPA. JX-16 (LPA Am. 14) at -433, ¶ 10.

Preferred Units,[4] the right to approve budgets, and it gave the GP the right to call capital based on those approved budgets.

2. The Budget Approval Process

The process by which Rigmora exercised its approval rights typically began with informal discussions among Rigmora's CIO (which role has been transferred over time), Harrison, and Rybolovlev. Harrison Dep. Vol. 2 374:19-375:6. As Harrison will testify, for each new Series A investment, he and Rybolovlev discussed the opportunity, its prospects for commercial and scientific success, and funding needs. Once Rybolovlev informally approved the investment, ATP would prepare a formal investment memorandum, CFIUS memorandum,[5] and a request for formal budget approval.

After formal budget approval, ATP entered into Series A stock purchase agreements ("SPAs") with the relevant portfolio company. In many cases, the deployment of capital was tied to milestone-based tranches, but ATP retained the

[4] *See* JX-1 (LPA) § 6(c)–(e) (issuing 855,000 out of 900,000 preferred units to Rigmora's predecessors).

[5] Each of the budget requests was accompanied by an analysis of the need for a CFIUS review; counsel typically concluded that because these were greenfield businesses they were outside the purview of the CFIUS statute. *See* JX-310 at -216–17.

discretion to disburse capital regardless of milestone progress, as is typical for SPA's in the venture industry. *See, e.g.*, JX-248 at -167–69, § 1.2(a)–(i).

Most of the portfolio companies at issue in this case exclusively relied on Series A funding from the Partnership to meet their operating needs, and they, in turn, relied on ATP's commitment when recruiting top scientists and staff. JX-1174 at -335. As Harrison will testify, this arrangement stemmed from multiple factors, including Rybolovlev's insistence on ATP ownership and control and, eventually, the inability of the Partnership to syndicate its deals owing to KYC issues with Rybolovlev arising from post-Ukraine perceptions of Russian nationals.

3. The Global Default Provision

Because ATP is by design often the only source of funding for its portfolio companies, the consequences to those companies of Rigmora breaching its obligations to contribute capital are existential. A funding default could trigger talent loss, delayed or abandoned R&D, difficulties restarting halted or delayed trials, difficulty attracting future investments or partners, and negative perception of the company. JX-1572 (Rao Opening) ¶ 67. To ensure funding, the LPA provides for a range of potential consequences if an LP fails to meet a capital call, including imposing a Default Charge. This is typical of most LPAs, but as Harrison will testify, it was especially important for this one, which relied on essentially single-source funding.

Specifically, five days after a missed capital call the GP may issue a Default Notice (as defined in the LPA) informing the LP of its failure to make payment and notifying it that it will be considered a "Defaulting Partner" if payment is not received within thirty days. LPA at -269–73, ¶ 5(c). Once an LP becomes a Defaulting Partner, the GP may pursue one of four alternatives in its sole discretion, including a Default Charge in an amount up to "[redacted]" *Id.* at -271, ¶ 5(c).

Further, "[redacted]." *Id.*

In addition to imposing a Default Charge (the amount of which is left to the discretion of the GP), the GP may pursue the Partnership's other rights and remedies against the Defaulting Partner under the LPA, the SAs, and Cayman law, including bringing a lawsuit to collect the unpaid capital contribution, together with interest, costs, and damages. *Id.* at -270, ¶ 5(c)(iv).

Even after being subjected to a Default Charge, the Defaulting Partner remains obligated to pay both the unpaid capital call that led to the Default Charge and subsequent capital calls when due. *Id.* at 271, ¶ 5(c).

Finally, the LPA provides that a Defaulting Partner loses "[redacted]" *Id.* at -320, ¶ 18(f).

C. Rigmora Seeks Greater Returns On New Projects Through A Pool Structure And Additional Capital Commitments.

1. Amendment 13

Dated February 4, 2019, Amendment 13 to the LPA introduced a pool structure, by which the economics of the fund, including capital commitments and contributions would be allocated to and tracked in discrete "pools." While the pool structure did not create separate legal entities within the Partnership, the pool structure allowed it to allocate profits in newer projects to continuing participants—like Rigmora—without affecting former employees' carried interest. Finkelman Dep. 38:19–41:18.

The first iteration of the pool structure consisted of just two pools, Pool A and Pool B. Pool A was to hold the Partnership's existing economics, while Pool B would hold those of new projects. JX-15 (LPA Am. 13) at -424, ¶ (a). All capital invested in the new projects would be called exclusively from and contributed by Rigmora and would be treated as contributed to Pool B. *Id.* at -424, ¶ (b). Finally,

expenses were also allocated exclusively by pool insofar as they were "directly attributable" to a particular Pool; otherwise they were apportioned between the pools according to the relative cost basis between them. *Id.* at -425, ¶ (d).

When the Parties executed Amendment 13, they agreed "[redacted]" *Id.* at -424, ¶ (a). Each time the Partners amended the pool structure, they included a version of the foregoing "pool-by-pool" language.

Notably, the new pool structure had no effect on any provision of the LPA not specifically addressed in the amendment, including the provisions related to Defaulting Partners and Default Charges. A savings clause in Paragraph (k) of Amendment 13 made clear that, [redacted] *Id.* at -427, ¶ (f).

2. Amendment 17

Dated September 9, 2020, Amendment 17 to the LPA further developed the pool structure by adding an additional pool, establishing an additional [redacted] capital commitment on behalf of Rigmora, and allocating that new commitment between Pool B and the new Pool C.

Under a new Paragraph 20 to the LPA, the Partnership's assets and liabilities were to be divided into three separate pools. Pool A would consist of Rigmora's original [redacted] capital commitment and all economics of the Partnership not specifically allocated to Pool B or Pool C. JX-89 (LPA Am. 17) at -444–445, ¶ 4 (new Paragraph 20(a)).

Pool B would contain the economics of three companies: Chinook Therapeutics U.S., Inc.; Nine Square Therapeutics Corporation; and Initial Therapeutics, Inc., including a proportionate share of the expenses of Apple Tree Life Sciences, Inc. ("ATLS"),[6] and "[redacted]." *Id*. No investments in new projects or companies could be made from Pool A or Pool B after the date of Amendment 17; only follow-on investments in the same pool were permitted. *Id*.

Pool C would contain the economics of a single company, Kynos, the first of many new companies that ATP would found, a proportionate share of the ATLS fee, and "[redacted]

[6] ATLS is a wholly owned subsidiary of the Partnership designed to cover Partnership operational expenses like facility costs, leases, rents, and employee costs. LPA Schedule A at -380; Finkelman Dep. 164:21–165:8.

[7] Amendment 9 of the LPA describes Rigmora's predecessors in interest as the "Subject Limited Partner." JX-11 (LPA Am. 9) at -388, ¶ 1.

[redacted]" *Id.* As with Pool B, Pool C would be funded "exclusively" by Rigmora, and [redacted] *Id.* at -445, ¶ 4 (new Paragraph 20(b)).

Amendment 17 included its own version of the "pool-by-pool" language, *id.* at -445 (new Paragraph 20(a)), and a savings clause like Amendment 13, *id.* at -452, ¶ 9.

On September 20, 2020, the Parties executed amendments to the SAs reflecting the increases set forth in Amendment 17. JX-99 at -038; JX-101 at -040 (increase "allocated between Pool B and Pool C in accordance with the terms of Amendment No. 17 to the Partnership Agreement.").

3. Amendments 18 And 19

Dated November 5, 2020, Amendment 18 again amended Paragraph 20 of the LPA, this time to add two new pools and to change the names of the existing pools. JX-126 (LPA Am. 18) at -461–62. Amendment 18 otherwise left Paragraph 20 unchanged.

Amendment 19, dated November 27, 2020, made further name changes:

- Pool A became ATP IV
- Pool B became ATP V-1

- Pool C became ATP V-2

JX-132 (LPA Am. 19) at -477, ¶ 1. Amendment 19 otherwise left the LPA unchanged.

D. Amendment 20: Rigmora Increases Its Capital Commitment.

In May 2021, Harrison and Rigmora's then-CEO and CIO Anna Kolonchina began negotiations with respect to LPA Amendment 20. The Parties exchanged an outline of key terms, dated May 26, 2021, which listed "deemed … remaining unfunded capital commitments" for each pool in roughly the following amounts: (1) [redacted]; (2) [redacted] (3) [redacted]; (4) [redacted]; and (5) [redacted]. JX-195 at -185. The Parties then agreed to "start drafting a long form" version of Amendment 20. *Id*. at -181. Amendment 20 was fully executed on June 21, 2021 with the following principal provisions.

First, Amendment 20 added a new Paragraph 21 to the LPA to create Pool Braeburn. That pool would consist of the economics "[redacted]." JX-222 (LPA Am. 20) at -368, ¶ 1 (new Paragraph 21(a)). Those assets were to include, as relevant here, the existing value of Braeburn—which was expressly transferred from Pool ATP IV—and "[redacted]

[redacted]" and Braeburn's share of relevant ATLS fees. *Id*. at -368–69, ¶ 1 (new Paragraph 21(a)–(b)). New Paragraph 21 included a Braeburn-specific version of the "pool-by-pool" language, making clear that Pool Braeburn would be subject to separate capital contributions and recordkeeping. *Id*. at -369 (new Paragraph 21(a)). Pursuant to new Paragraph 21(b), all capital invested in Pool Braeburn was to be called from and contributed exclusively by Rigmora. *Id*.

Second, Amendment 20 created Pool ATP V-3, which was to consist of the economics associated with the Partnership's investments in seven companies and their successors. *Id*. at -371, ¶ 2 (new Paragraph 22(a)). New Paragraph 22(b) provided that Pool ATP V-3 "shall have capital commitments of [redacted]," including (i) [redacted] in capital contributions deemed to have been contributed from Pool ATP IV to Pool ATP V-3, (ii) [redacted] in previously approved but unfunded budget amounts called the "Prior Budgeted ATP V-3 Follow-on Investments," (iii) "approximately" [redacted] in "[redacted]," and (iv) Pool ATP V-3's share of the ATLS fee. *Id*. at -372, ¶ 2 (new Paragraph 22(b)). Pool ATP V-3 capital calls were to come from not just Rigmora but also Harrison and his family trust, Les Pommes. *Id*.

Third, pursuant to new Paragraph 24, the only remaining assets and capital commitments in Pool ATP IV would be contingency payments associated with four

existing companies and [redacted] in capital commitments to pay continuing expenses. *Id*. at -375, ¶ 4 (new Paragraph 24).

Amendment 20 incorporated by reference Annex A, an Excel spreadsheet "supporting certain of the calculations contained in [the] Amendment." *Id*. at -380, ¶ 13; *see also* JX-221 at -289 (Annex A). One sheet showed [redacted] in capital contributions to date by Rigmora in Pool ATP IV. *Id*. at "Capital Contributions – ATP IV" Cells D163, E163.

The schedules also showed [redacted] in capital contributions to date by Rigmora in Pool ATP V-1 and [redacted] in Pool ATP V-2, for a combined total of [redacted]. *Id*. at "Capital Calls – V-1 and V-2" Cells D23, D47.

A third sheet in the schedules showed [redacted] in "Remaining Approved Budget" for four of the Pool ATP V-3 companies and [redacted] in "Additional Estimated Budget" for all Pool ATP V-3 companies except one. *Id*. at "Pool ATP V-3" Cells G13, H13. There was no "Remaining Approved Budget" for the other three ATP V-3 companies.

E. ATP Makes New Investments Based On Rigmora Budget Approvals From 2021 To 2022

In the wake of the additional capital commitments in Amendment 20, ATP made new Series A and follow-on investments enabled by Rigmora's additional funding.

Specifically, Rigmora granted budget approvals, and ATP made investments in Pool V-1, V-2, and V-3 companies from 2021 onward in reliance on them. Rigmora approved budgets for Series A rounds from June 2021 to October 2022 in the following amounts:

Company	**Pool**	**Date**	**Amount**[8]
Evercrisp	ATP V-2	7/22/2021	[redacted]
Red Queen	ATP V-2	9/28/2021	[redacted]
Deep Apple	ATP V-2	11/10/2021	[redacted]
Aethon	ATP V-2	11/22/2022	[redacted]
		TOTAL:	[redacted]

Rigmora also approved budget increases, showing its faith in the progress and development of the portfolio companies, in the following amounts:

Company	Pool	Date	Amount[9]
Marengo	ATP V-3	11/12/2021	[redacted]
Marlinspike	ATP V-2	12/13/2021	[redacted]
Replicate	ATP V-2	12/15/2021	[redacted]
Ascidian	ATP V-3	9/28/2022	[redacted]
Aulos	ATP V-2	3/5/2023	[redacted]
		TOTAL:	[redacted]

In the year after Amendment 20 was executed, Rigmora continued to answer significant capital calls to fund these budget commitments. *See* JX-1622.

[8] *See* JX-1621.

[9] *See* JX-1622.

F. Rigmora Reevaluates Its Investment Strategy.

In fall of 2022, Bogdanov, who was charged with risk and financial management at Rigmora, wrote a series of memoranda describing what he characterized as a "[redacted]" with a [redacted] that could only be remedied with a change in Rigmora's investment strategy, particularly with respect to early stage biotechnology investing. JX-440 at -956. Bogdanov observed that Rigmora had no [redacted] and [redacted]. *Id.* He determined that Rigmora needed to avoid a similar situation it had faced "two or three years" earlier that "was resolved by liquidating" a private equity portfolio. JX-446 at -162. He further observed that in 2022 Rigmora's investments were structured "mainly with venture businesses," which presented the "risks" of "poorly predicable [] money inflows (divestments) [and] massive outflows (capital calls), which will grow exponentially if the divestments are delayed." *Id.* As a result, Rigmora was likely [redacted] by selling lower risk assets to fund its highly speculative biotechnology venture capital commitments. *Id.*

Over the course of several weeks Bogdanov developed multiple iterations of this "strategy memo." *See, e.g.*, JX-444 at -681; JX-446 at -162; JX-462 at -520. At the time, Bogdanov—who reported to Kolonchina from approximately 2018 until

October 2024—did not have "[redacted]" at Rigmora. Bogdanov Dep. 39:23–40:20. Yet he was formulating his longer-term, macro strategy to reorient Rigmora's risk and liquidity profile "[redacted]." JX-440 at -956.

Bogdanov identified a contributing factor to the liquidity problem as, "most importantly," "***guaranteed obligations*** on . . . biotech venture projects" like ATP. *Id*.[10] Although ATP could be "a source of capital gains," ATP could not "serve as a reliable source of cash for funding [Rigmora's] regular needs." *Id*. Bogdanov concluded that if Rigmora were to exit its biotech investments, it would gain a "buffer" of [redacted]—enough to mitigate the current liquidity crisis and achieve a "stable position" longer-term. JX-446 at 162. The way "[redacted]" was "**[redacted].**" Bogdanov Dep. 174:14–21.

The means to achieve these drastic reductions would be "tight controls," including "[redacted]." JX-462 at -520; Bogdanov Dep. 173:16–22. The core principle was "No funding sources – no new projects." JX-462 at -520.

[10] This email was sent by Bogdanov's associate, but Bogdanov testified that he is "[redacted]." Bogdanov Dep. 162:5–10.

G. Rigmora Begins To Shift Its Investment Strategy.

Contemporaneously, Rigmora communicated these new guiding principles to ATP. In late September 2022, Rybobovlev and Kolonchina explained to Harrison that "what was actually needed was an 'austerity' budget" for the Fund. JX-473 at -498. They proposed to Harrison that the Partnership "only pursue new deals that were really necessary." *Id.*

In a series of October 2022 meetings in person in New York and over Zoom, Rybobovlev and Kolonchina told Harrison that "from [Rybobovlev's] perspective, funding the Partnership was becoming increasingly challenging; that he could no longer fund new deals; that if forced to choose, he would not fund the newer deals in Pools V1 and V2 in order to prioritize older deals in V3[.]" *Id*. At the same time, ATP's business correspondence with Rigmora reflects ATP's view that Rigmora had begun to set the stage for selective defaults within the portfolio, claiming that no "global default mechanism" existed in the LPA and "that if capital calls could not be met, the defaults would be focused on Pools V-1 and V-2; and that based on the Family Office's interpretation of the LPA (as amended to facilitate the pools structure) [the LPA] already provided for pool-by-pool default (as opposed to global default)." *Id.* ATP disputed this position, because, *inter alia*, a global default was necessary to "balance the risk" of a partnership so heavily funded by one source. *Id.* at -497–98; *see* B.3, *supra*.

In 2023, the FDA approved Braeburn's drug Brixadi, transforming Braeburn from a struggling pre-commercial investment into a commercial-stage company with multi-billion dollar potential, and Rigmora demanded immediate distribution of Braeburn's shares. ATP refused on fiduciary grounds, citing concerns about the Fund's solvency and its possible default of its commitments to fund Pool V-1 and V-2. PTO ¶ 66. Despite this disagreement, to help Rigmora manage its cash flow issues and maintain the growth of the portfolio, ATP considered how to keep its portfolio companies operating on "lean budgets." *E.g.*, JX-1605 at -305.

By late 2023, however, Rigmora expressly conditioned its agreement to meet key funding obligations on ATP's agreement to cap its 2024 capital calls at [redacted] and to shift approved budgeted amounts away from its pre-clinical startups in Pools ATP V-1 and V-2 in favor of the older, clinical-stage companies. *See* JX-698 at -331–332.

There was relatively little correspondence or interactions between ATP and Rigmora in the first half of 2024, but in late July 2024, Rigmora suddenly renewed its demand for immediate distribution of the assets in Pool Braeburn (which had, at that time, been independently valued at up to [redacted]). When ATP informed Rigmora that it needed more than 48 hours to consider the implications of such a distribution on the Partnership, Rigmora immediately commenced a summary

proceeding in the Cayman Islands to compel the distribution. PTO ¶ 54; Ans. ¶ 98, 100.

Rigmora also used a 2024 Cayman lawsuit (the "Cayman Action") to preview one of its main defenses here: exhaustion of capital commitments. On October 10, 2024, Kolonchina filed an affidavit in the Cayman court stating, for the first time, that Rigmora's "combined Contingent Subscriptions are [redacted]," and since Rigmora had already funded [redacted] to date, "it is impossible" that Rigmora had outstanding contingent subscriptions. JX-1002 ¶¶ 23–26. Kolonchina further attested that there was no "global default mechanism" in the LPA. *Id.* ¶ 27. Later that day, Kolonchina stated in an email to ATP that Rigmora would pay a pending capital call despite that it was "not obligated to do so." JX-998 at -998. By October 2024, Rigmora was explicitly disclaiming any obligation to respond to capital calls even for approved budgets, insisting any payments would be made only "on a voluntary basis." *Id*.

1. Amendment 22

ATP and Rigmora settled the Cayman Action on December 20, 2024, agreeing to Amendment No. 22 and an amended agreement regarding Pool Braeburn. *See* JX-1068 (LPA Am. 22) at -490, ¶ 26. These transactions resulted in Rigmora obtaining distribution of the Braeburn royalty valued at the date of distribution at [redacted]. This distribution removed the Braeburn royalty from Pool Braeburn and transferred

it to a special-purpose entity known as ATC LLP, meaning that the royalty was no longer subject to the Global Default Charge.

In return, Rigmora agreed in Paragraph 26 of the LPA to negotiate budgets to fund certain portfolio companies that were nearing the end of their previously-approved funds. The Parties agreed:

[redacted]

Id. ¶ 26.

Paragraph 26 also states that [redacted]" Rigmora, "[redacted]." *Id.* The "[redacted]" referred to in Paragraph 26 is a "Royalty Financing."

In pursuing the financing, as well as approving budget proposals, each party agreed to "[redacted]

[redacted]." *Id*. at -491, ¶ Miscellaneous. Rigmora still has not closed a financing agreement eight months later. *See* PTO ¶ 38.

Bogdanov was a primary negotiator for Amendment 22. Bogdanov Dep. 211:4–212:22.[11]

2. Instead Of Reviewing ATP Budgets In Good Faith, Rigmora Erects Barriers To Approval.

On December 25, 2024, ATP sent Rigmora proposed budgets totaling [redacted] for the five companies specified in Amendment 22. *See* JX-1079 at -663; Bogdanov Dep. 225:10–226:16. Harrison provided access to data rooms with "[redacted]," as well as a spreadsheet showing expected tranching by quarter for 2025. *Id.* at 226:6–23. Bogdanov forwarded the email to Rigmora's analyst, Zufar Iskhakov, exclaiming "Let's start. Merry Christmas!" JX-1079 at -663. Bogdanov admitted in deposition that he did not mean "[redacted]." Bogdanov Dep. 228:13–15. Instead of reviewing the merits of individual companies, Rigmora responded by having its analyst Iskhakov generate lengthy follow-up questions and due diligence lists as delay tactics while companies faced imminent cash shortfalls. *See id.* 229:11–230:16. Bogdanov's strategy was finally being deployed.

[11] In October 2024, Kolonchina left Rigmora and Bogdanov became the CIO and Co-CEO. Bogdanov Dep. 44:1–3.

Bogdanov had Iskhakov draft onerous and time-consuming diligence lists beginning with Replicate. *See* JX-1287 at -9245 (instruction to revise questions to be "open-ended"); *see, e.g.*, JX-1107 at -651 (1/5/2025 email from Bogdanov attaching follow-up questions for Replicate); JX-1112 at -446 (1/7/2025 email from Iskhakov to Bogdanov regarding questions for Aulos and proposing next to look at Nine Square). This was a marked departure from the prior budget process and far outside the norm for follow-on investments by an investor with intimate knowledge of the companies. Bogdanov conceded at deposition that he had no basis to believe that the requests would even be feasible to satisfy. Bogdanov Dep. 237:6–11.

It is clear that Rigmora's "diligence" requests were not *bona fide* but were, to the contrary, pretexts to support Rigmora's refusal to negotiate and approve new budgets.[12] As the testimony at trial will show, they were prepared by Iskhakov, an analyst with no biotechnology background. Rigmora concedes that it was unprepared to evaluate the technical, detailed responses in any meaningful way, having no subject matter experts on staff and no retained any consultants to assist in evaluating ATP's requests for new budgets. *See, e.g.*, *id.* 31:2–9 (Bogdanov's educational background is in finance and business valuation); *id.* 45:23–46:9

[12] Rigmora also sought to minimize the General Partner's carried interest in certain clinical-stage portfolio companies, thereby increasing its own carried interest. JX-1119 at -5439 (referring to a "task from Yury to find the most optimal way to minimise the GP carry"); Bogdanov Dep. 213:16–220:25.

(Bogdanov has never taken courses in the sciences or medicine); *id.* 46:11–15 (Rigmora does not employ anyone with a scientific background in biotechnology research or development and did not have any outside biotechnology consultants analyze any companies in ATP's portfolio, with the exception of Braeburn); Blöchlinger Dep. 37:17–25 (Blöchlinger has no biotechnology, research or medical background); Yakovlev Dep. 30:23–25 (Yakovlev's background is in finance and accounting).

In March 2025, Rigmora required the management teams from Ascidian, Marengo, and Aulos to fly to Monaco to justify continued funding. *See* JX-1608 at -2238. At meetings from March 12–14, 2025, the teams—all now running important clinical trials but cash-strapped due to Rigmora's failure to approve new budgets—presented their respective companies' clinical development progress and plan for further funding. *E.g.*, JX-1222 at -920. ATP also brought a highly-qualified independent industry expert to meet with Rigmora and permitted Rigmora to ask the expert any and all questions that it had concerning the prospects for future success among the clinical-stage companies. *See id.* These Monaco meetings were a purposefully burdensome continuation of Rigmora's diligence requests. *See* JX-1227 at -354 (Iskhakov providing Bogdanov with "a list of questions" for the meetings). No funding came of them.

Even after the Monaco meetings, ATP tried to work constructively with Rigmora as it contemplated the prospect of "drastically" reduced budgets. By teleconference on April 29, 2025, ATP proposed to Rigmora that it permit ATP to reallocate funds from the pre-clinical companies with approved budgets to the clinical-stage companies. JX-1282 at -190–92. This proposal, prepared at Rigmora's behest, was a compromise attempt to prioritize clinical-stage companies to preserve the value of the Fund. *Id.* at -191 ("CF comparison" tab, showing prioritization of "Clinical Group" Ascidian, Replicate, Marengo, Aulos); JX-1336 at -260. But Rigmora subsequently attempted to reframe the reallocation proposal as a concession by ATP that the preclinical companies were not worth funding—a characterization that ATP swiftly rejected. *Id.* at -260–61.

3. Rigmora Conditions Funding Of Clinical-Stage Companies On ATP's Agreement To Shutter Pre-Clinical Companies.

Into the spring of 2025, ATP continued to submit urgent follow-ups on the approval requests to Rigmora. *See, e.g.*, JX-1171 at -205 (1/28/2025 request for [redacted] increase for Replicate, noting "Replicate has an [redacted]") (emphasis original); JX-1232 at -380 (request for new budget "ASAP"); JX-1349 at -205. Other than the demands of the March meetings, and the partial approval of Replicate budgets, Rigmora remained largely silent, as portfolio

companies faced imminent cash shortfalls. *Cf.* JX-1232 at -379 (Rigmora internal discussion of cashflow for portfolio companies).

Facing approval requests for clinical-stage companies that were "due to run out of money [redacted]," Rigmora unleashed Bogdanov. JX-1319 at -364 (the "May 15 Email"). In his May 15 Email, Bogdanov rejected any further funding obligations owed to ATP, claiming that Rigmora "do not presently have any outstanding capital commitments to ATP Fund and therefore has full discretion whether to agree to fund any new investment proposals." *Id*. He also declared that ATP should cease any further funding of the seven pre-clinical companies that still had approved but as-yet unspent budgets referred to as the "Early-Stage Companies." *Id*. He claimed those companies had "no way for a path to commercial success" and had "failed to meet the milestones set out in the investment memoranda." *Id*. Bogdanov then expressly conditioned any further funding of the four clinical stage companies on ATP's agreement to "wind down or liquidate the Early-Stage Companies."[13]

The May 15 Email was the culmination of Bogdanov's strategy, first articulated in October 2022, to "drastically" reduce Rigmora's funding of ATP.

[13] Bogdanov did not address the two pre-clinical companies Nereid and Nine Squared that had already expended their initial Series A funding. *See id.*

Since the May 15 Email, Rigmora has let multiple budget requests go unanswered. JX-1338 at -816 (5/19/2025 Aulos budget approval request which would increase the total budget to [redacted]); *id.* at -805 (5/20/2025 email to Yuri Bogdanov attaching the 5/19/2025 Aulos budget request); JX-1340 at -750 (5/19/2025 to Yuri Bogdanov requesting Ascidian budget increase and attaching budget approval request); *id.* at -804 (5/19/2025 Ascidian budget approval request which would increase the total budget by [redacted] to [redacted]); JX-1349 at -205 (5/19/2025 email to Yuri Bogdanov requesting a [redacted] increase to the Marengo budget, resulting in a total budget of [redacted]).

H. ATP Issues The May 30 Capital Calls

On May 30, 2025, multiple portfolio companies faced imminent standstill despite having unfunded budget amounts. As Harrison will testify, Initial, Evercrisp, Apertor, Nereid, Nine Square, and Aulos were facing imminent shutdown, and Aethon, Replicate, Red Queen, Marengo, Marlinspike, Deep Apple, and Ascidian were expected to soon follow. Thus, despite Rigmora's bad faith insistence that it would not answer further capital calls for seven of these companies, ATP determined to call the capital necessary to fund the ATLS fee, certain existing Fund expenses, and capital needed to maintain research activity at each of the pre-clinical companies with remaining budgets:

Company	Pool	Capital Called	Remaining Approved Budget[14]
Aethon	ATP V-2	[redacted]	[redacted]
Apertor	ATP V-2		
Ascidian	ATP V-3		
Deep Apple	ATP V-2		
Evercrisp	ATP V-2		
Initial	ATP V-1		
Marengo	ATP V-3		
Marlinspike	ATP V-2		
Red Queen	ATP V-2		
Replicate	ATP V-2		
TOTAL:			

Without the May 30 capital calls, the jobs of roughly two hundred portfolio company employees were almost certain to be lost, as Dr. Harrison will testify at trial.

Rigmora has failed to contribute capital in response to any of the foregoing May 30 capital calls, including those for [redacted] in ATLS fees and already-incurred partnership expenses (together with a revised June 1 capital call for Replicate, the "May 30 Capital Calls").

I. The Portfolio Companies And The Partnership Have Been, And Will Be Further, Damaged By Rigmora's Breach

The risk of insufficient capital has negative consequences for early-stage life sciences companies and venture capital funds. These risks include the loss of

[14] JX-1622.

talented personnel who have invested their time and effort in developing the portfolio companies technology. As Harrison will testify, ATP itself has lost personnel, including resignations of its senior investment analyst, its CFO, and one of its most experienced and highly regarded venture partners.

Portfolio companies also face delayed or abandoned R&D, difficulties restarting halted or delayed trials, difficulty attracting future investments or partners, and negative market perception in general. JX-1572 (Rao Opening) ¶ 67; *see also* JX-1174 at -335 (without "financing rounds to achieve value-creating milestones plus margins of at least six months … biotech investors do not invest, and typically top founders and high-quality managers will not participate."). Abruptly discontinuing or withholding funding for pre-clinical companies like the portfolio companies can ultimately trigger bankruptcy proceedings, leading to distressed sales of the key assets for "a fraction of their actual value." JX-1573 (Robbins Opening) ¶ 162.

As Harrison and Liras will further testify, most of the pre-clinical companies have been forced to drastically reduce operations, losing the benefit of valuable scientific progress over many months and years, as a result of their current funding shortfalls. This is precisely why the Partners agreed, when they entered the LPA, that "[redacted]

[redacted]." *See* LPA ¶ 5(c). Significantly, Yanchik will testify at trial that new funding would enable the pre-clinical companies to resume their research activity [redacted] but the time remaining to do so is short. Yanchik Dep. 337:10–13.

ARGUMENT

I. Legal Standards

The LPA states, and the Parties agree, that the "terms and provisions" of the LPA "shall be construed under the laws of the Cayman Islands, and thus this Court should apply Cayman law in determining breach. LPA ¶ 18(g)(1).[15] The elements required to prove a breach are: (1) a valid contract, (2) a breach of that contract, and (3) damages arising from the breach.[16] JX-1588 (Phillips Opening) ¶ 56.

Under Cayman law, a court interprets a written contract according to "the intention of the parties by reference to 'what a reasonable person having all the background knowledge which would have been available to the parties would have understood them to be using the language in the context to mean.'" JX-1574 (Bloch Opening) ¶ 23(1). The aim is to ascertain the "objective meaning" of the contract based on not just the language of a particular clause but on the "contract as a whole

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[15] PTO ¶ 25.

[16] The same elements apply under Delaware law, *Kuroda v. SPJS Holdings*, L.L.C., 971 A.2d 872, 883 (Del. Ch. 2009), and there is therefore no conflict as to the basic elements of the claim.

and, depending on the nature, formality and quality of drafting of the contract, give more or less weight to elements of the wider context in reaching [a] view as to that objective meaning." *Id.* ¶ 23(2). When the language of an agreement is unclear, a court applying Cayman law "may be particularly helped by considering the factual matrix and the purpose of similar provisions in contracts of the same type." *Id.* ¶ 25; *accord* JX-1588 (Phillips Opening) ¶ 61. One significant precedent, authored by Lord Hodge, describes contract interpretation as a "unitary exercise involv[ing] an iterative process by which each suggested interpretation is checked against the provisions of the contract and its commercial consequences are investigated," and a close textual reading is balanced against "the factual background and the implications of rival constructions" to arrive at the objective meaning of the contract. JX-1574 (Bloch Opening) ¶ 25.

II. Rigmora Breached LPA ¶ 26 By Failing To Discuss New Budgets.

Paragraph 26 of the LPA requires Rigmora to engage with the budget approval process for certain companies after December 20, 2024. The phrase in Paragraph 26 "[redacted]" obligates both Parties to engage in the budget process for Ascidian Therapeutics, Aulos Bioscience, Nereid Therapeutics, Nine Square Therapeutics, and Replicate Bioscience. JX-1068 (LPA Am. 22) at -490; *see* JX-1574 (Bloch Opening) ¶ 66(1) (concerning mandatory language). These discussions were required to provide 12-month operating budgets to keep these companies

funded through specific dates (ranging from January 2025 to first quarter 2026). JX-1068 at -490. Rigmora breached its obligations under Paragraph 26 by first refusing for months to "[redacted]" earnestly and then disavowing discussions unless and until ATP agreed to liquidate unrelated companies.

On December 24, 2024, ATP sent Rigmora proposed budgets totaling [redacted] for the five companies specified in Amendment 22. *See* JX-1079 at -663; Bogdanov Dep. 228:1–15. Despite receiving comprehensive budget requests with supporting data on December 24, 2024, Rigmora responded with delay tactics. Instead of reviewing the merits of individual companies, Bogdanov immediately forwarded his team Harrison's December 24 email requesting urgent budget approvals with the message "Let's start. Merry Christmas!," but no budget approvals were forthcoming. Bogdanov admitted in deposition that he did not mean "[redacted]." JX-1079 at -663; Bogdanov Dep. 225:10–227:16. He meant the opposite—let's start imposing the "tight controls" and finding a way to "drastically reduce payments to ATP." JX-462 at -520; *see* Background G, *supra*.

ATP attempted to generate momentum. Harrison and Rybolovlev met in Monaco on March 12-14, 2025, consistent with their practice developed over fourteen years of ongoing interchange. However, *unlike* past practice where budgets were almost universally approved after detailed discussions with Rybolovlev, Rigmora delayed. Bogdanov asked for more "diligence" information (even asking

that ATP re-send materials it already received) and cited made-up "inconsistencies" as an excuse. *See* Background G, *supra*. Rigmora feigned engagement, while concealing its true intentions. By six months after Amendment 22, Rigmora had only made a single limited approval. *Cf.* JX-1127 at -731.

The May 15 Email then effectively killed any meaningful budget discussions. Rigmora's demands, beyond the irrational condition to liquidate the pre-clinical companies, included that ATP provide "a detailed explanation" demonstrating "that the LPA allows [the GP] to call further capital"; "objective information" including "new milestones, expected return on invested capital, business theses etc." None of this was required by Amendment 22, and Bogdanov conceded they might be impossible to address. Rigmora's failure to discuss budgets breaches Paragraph 26.

A. The [redacted] Contingency Does Not Excuse Rigmora.

Rigmora is expected to assert that Paragraph 26's [redacted] contingency excuses its bad acts and breaches. Not so. Paragraph 26 establishes two obligations: first, the mandatory duty to "[redacted]," and second, the contingent nature of any subsequent "[redacted]" The paragraph makes clear that the contingency was to be applied to the approval—*i.e.* budgets approved by Rigmora were to be conditional approvals "[redacted]." This contingency does not apply to Rigmora's obligations to discuss budgets. Rigmora

breached by failing to engage faithfully in the required discussions between ATP's submission of budget requests on December 25, 2024, and the filing of this action.

Once Rigmora breached the obligation to "[redacted]" it could not then rely on the fact that approvals would have been contingent as a means of evading the consequences of the breach, which include treating "any requirement for Rigmora's approval of the budgets … as satisfied and any right which Rigmora may have had to refuse such approval as lost." JX-1574 (Bloch Opening) ¶ 97. Rigmora should not be permitted to invoke conditional provisions *to approval* when it has materially breached a related obligation under the same agreement.

Similarly, under the prevention doctrine, a party cannot benefit from conditions—and evade obligations—when its own conduct has prevented fulfillment of its contractual obligations. *See King Crude Carriers v. Ridgebury* [2024] EWCA Civ 719 at [85] ("[A]n obligor is not permitted to rely upon the non-fulfilment of a condition precedent to its debt obligation where it has caused such non-fulfilment by its own breach of contract."); JX-1574 (Bloch Opening) ¶¶ 58–59.[17]

[17] *King Crude Carriers* outlines three elements for the doctrine of "deemed performance," all of which are met here: (1) an agreement capable of giving rise to debt (Amendment 22 creates capital contribution obligations for approved budgets, and for budgets once approved and called); (2) debt contingent on condition precedent (budget approvals and thus the called capital contingent on the [redacted]

III. Rigmora Violated Its Implied Duties.

A. Rigmora Is Bound By Implied Duties.

The LPA necessarily contains implied duties that require Rigmora to engage with the LPA's budget approval process and exercise its approval powers in good faith (for proper purposes related to the contract), and honestly and rationally (not arbitrarily, capriciously, or perversely).

Consistent with principles of English common law, Cayman common law recognizes that terms may be implied in a contract when "the term must be necessary either to spell out what is so obvious that it goes without saying or to give business efficacy to the contract." *Tesco Stores v. USDAW* [2024] UKSC 28 at [102]; *see also Marks & Spencer v. BNP Paribas* [2015] UKSC 72 at [21]; *Primeo Fund (In Official Liquidation) v. Bank of Bermuda (Cayman) Ltd.*, [2017 (2) CILR 334 at 440]; *Cayman Shores v. Registrar of Lands*, [2021 (2) CILR 1 at 38]. Following that standard, courts have recognized implied duties of good faith, rationality, and honesty. *See* JX-1574 (Bloch Opening) ¶¶ 49-51, 55 (collecting cases). In *Braganza v. BP Shipping Ltd*, [2015] UKSC 17, the UK Supreme Court held that "where contractual terms gave one party to a contract the power to exercise a

[redacted] realization); and (3) agreement that obligor will not prevent the condition (an implied duty of cooperation and discussion in reaching the contingency). *See King Crude Carriers v Ridgebury* [2024] EWCA Civ 719 at [81]; *see also* Bloch Dep. 180:10–183:11.

discretion or form an opinion as to relevant facts … the court would seek to ensure that the power was not abused by implying a term in appropriate cases." *Id.* at Headnote, [18]-[19]; *see also id.* at [28]-[33] (discussing approach to implying terms).

1. Implied Duties Are Necessary To Give The Contract Business Efficacy.

This is "an appropriate case" under the *Braganza* doctrine. The LPA would not "work" as the Parties intended without *some* fetters on Rigmora's discretionary decisions to approve or deny budgets. JX-1574 (Bloch Opening) ¶ 40 ("whether to imply a term may depend on 'whether, without the implied term, the contract would work in the way the parties must reasonably have intended and expected it to work'") (quoting *Tesco*, at [105]). Without fetters on the budget process, Rigmora could unilaterally determine that the Fund would not invest in biopharmaceutical companies; the GP could not manage the business decisions; the GP could not call capital; Rigmora could evade both contribution and default.

The structure and objects of the LPA—which states the purposes of the Partnership, the capital the limited partners are committed to provide, the circumstances in which the General Partner may call upon the limited partners to provide it—*clarify* that Rigmora is bound by implied duties in the budget approval process.

First, the LPA's structure and object center on the sole purpose of the Partnership: [redacted]." JX-2 (LPA Am. 1) ¶ 1(c).

Second, the structure and objects of the LPA recognize that the GP has management power. The LPA provides that [redacted] LPA ¶ 2(b), which accords with the Cayman ELPA. JX-1574 (Bloch Opening) ¶ 60.

Third, the structure and objects of the LPA recognize that Rigmora's contributions are essential to the Partnership's business purpose. The LPA establishes budgets as the gateway to initial investments and capital deployment by limiting the General Partner's right to call capital for Projects solely to those Projects that have approved budgets. JX-4 (LPA Am. 3) ¶ 5(a)(ii).

The LPA has long afforded Rigmora the right to approve budgets. *Id.*; *supra* Background Section I.B.2. In Amendment 22, the Parties agreed that, for certain future budgets, the Parties would follow the process set forth in Paragraph 5(a)(ii) or Schedule C. JX-1068 (LPA Am. 22) at -2490.

Consistent with the authority granted to the General Partner to manage the business, LPA ¶ 2(b), *the General Partner* has the discretion to call capital, provided the budgets have been approved. *Id.* ¶ 5(a)(i); JX-4 (LPA Am. 3) ¶ 5(a)(ii). The

General Partner also may call a default [redacted] LPA ¶ 5(c). That is, Paragraph 5 requires the Limited Partner to make a capital contribution after the General Partner has exercised its discretionary right to call the capital; such right to call is itself conditioned on the approval of a budget. *See id*. ¶ 5(a)(i); JX-4 (LPA Am. 3) ¶ 5(a)(ii). Since GPs have management rights, and partners must contribute capital [redacted] but only for projects with approved budgets, LPA ¶ 5; Schedule C, "[redacted]" Rigmora in the budget process. JX-1574 (Bloch Opening) ¶ 96.

Without budget approvals, the Partnership's business purpose does not work. The Fund cannot maintain operations of existing portfolio companies or pursue new investment opportunities—its fundamental purpose. As Bloch explains: "Were an unfettered right to decline to approve budgets to exist, the basic scheme of the LPA Am22 would lack coherence." *Id.* ¶ 73. Put simply, if Rigmora could improperly wholesale refuse to approve budgets, this would allow it to circumvent its capital obligations and the default provisions to enforce those requirements, rendering the GP's management and the Fund's purpose nugatory. Fetters therefore must be implied.

2. The Implied Duties Are Obvious.

This Court can find that "notional reasonable people in the position of the parties at the time at which they were contracting" intended implied fetters or would have had they specifically considered them. *Marks & Spencer v. BNP Paribas*, at [21] (quoted in JX-1574 (Bloch Opening) ¶ 37). Conversely, finding no implied duties would aggrandize the scope and power of the budget approval terms, allowing Rigmora to scuttle the LPA's purposes and operations indiscriminately. Commercial parties understand that long-term investment relationships require reasonable constraints on discretionary powers, *see Cayman Shores v Registrar of Lands,* [2021 (2) CILR 1 at 88], and no commercial party would place their entire business purpose at the mercy of dishonest, arbitrary or irrational decision-making.[18]

3. The Exclusion of Fiduciary Duties Does Not Preclude Contractual Duties.

Rigmora's expert incorrectly argues that the LPA does not require that Rigmora act in good faith, honestly, and rationally, in large part because Rigmora is a limited partner that owes no fiduciary duties. *See, e.g.*, JX-1588 (Phillips Opening) ¶¶ 44, 72–75. Phillips is wrong for at least three reasons. ***First*,** Section 19(2) of

[18] Contrary to Phillips' view, sophistication of the parties militates in favor of, not against, such implication. The history of the LPA and its twenty-two amendments also illustrate that the Parties were cooperating over time.

the ELP Act does not purport to eliminate implied contractual terms. It addresses only "fiduciary" duties. Phillips does not grapple with (and the ELP Act does not address) the fact that a duty to act in good faith may stand even alone where the more encompassing fiduciary duty does not arise. ***Second*****,** courts interpret statutes harmoniously with common law principles unless there's clear legislative intent to override them. Nothing in the ELP Act suggests an intention to eliminate common-law principles of contract interpretation. ***Third*****,** the duty to exercise budget approval rights honestly and rationally arises from ordinary principles of interpretation, not a fiduciary obligation.

The UK Supreme Court in *Braganza* recognized that implied duties are particularly necessary where one party holds discretionary power that could adversely affect another party's interests—precisely the situation here. The LPA grants Rigmora budget approval authority—a power that directly affects the Partnership's ability to function. Like in *Braganza*, in the circumstances of the budget approval process, the contracting parties' interests conflict. This potential conflict strengthens, rather than weakens, the case for implied duties. *See Braganza v. BP Shipping Ltd.* at [18] (where a conflict of interest arises based on contract terms empowering one party to make unilateral decisions "[t]he courts have therefore sought to ensure that such contractual powers are not abused").

In sum, LPA Paragraphs 5 and 26 accord Rigmora the right to approve budgets. These paragraphs do not state in what manner Rigmora may or may not consider a budget; no provision in the LPA expressly authorizes Rigmora to deny a budget arbitrarily, capriciously, or for ulterior motives that defeat the purpose and spirit of the contract or otherwise expressly addresses such behavior. Rigmora is thus bound to have exercised its discretion honestly and rationally. The implied constraints simply ensure that discretionary powers are exercised within the bounds of commercial reasonableness that all parties expected when entering the LPA.

The alternative—truly unfettered discretions in a long-term investment structure—would be so commercially unreasonable that no rational party would agree to it.

B. Bogdanov's May 15 Email Breached Rigmora's Contractual Duties Of Good Faith, Honesty And Rationality.

On May 15, in response to urgent budget approval requests for clinical-stage companies that were "due to run out of money [redacted]," Rigmora responded with "a disregard for any *Braganza* type restraints." JX-1574 (Bloch Opening) ¶ 90. In the May 15 Email, Rigmora violated its implied duties to exercise its budget approval powers honestly, rationally, and in good faith.

First, Rigmora dishonestly asserted that Rigmora had no outstanding capital commitments, claiming: "the SLP do not presently have any outstanding capital

commitments to ATP Fund ***and therefore*** has full discretion whether to agree to fund any new investment proposals." (Emphasis added.) That premise is demonstrably false. *See*, *supra*, I.D.[19]

***Second*,** Rigmora irrationally categorized seven different companies as unfundable. Rather than engaging on the merits of the budget requests, Rigmora unilaterally declared that the pre-clinical companies have "no way for a path to commercial success" and that "they have failed to meet the milestones set out in the investment memoranda." JX-1318 at -359. Given its lack of any scientific expertise, there is no way Rigmora could accurately or honestly assess the prospect for commercial success for any, never mind *every single one*, of these companies. In deposition, Bogdanov himself retreated from these failure decrees: when pressed on whether there was truly "[redacted]" forward for success, he called his pronouncements merely a "[redacted]." Bogdanov Dep. 254:7–11. Rigmora's categorical rejection of capital calls for so-called "Early-Stage Companies" was not based on a rational assessment.

[19] As of the date of Bogdanov's email, the seven "Early-Stage Companies" he identified had a combined [redacted] in budgeted amounts on which ATP could make binding capital calls, and the clinical-stage companies had a combined [redacted] in approved and uncalled budget commitments. JX-1609, -649 at Cells G6, G13–19, G30. That Rigmora actually agreed with this assessment is set forth in an email to Bogdanov from his colleague Iskhakov dated April 4, 2025. JX-1242 at -126.

Equally misleading is Rigmora's newly-created assertion that the LPA requires portfolio companies to meet milestones as a condition precedent to call capital on approved budgets. *Id*. There is no textual support for such a condition. Until May 2025, Rigmora never objected to meeting a capital call on the grounds that a portfolio company had missed a milestone. Even if, arguendo, milestones were a funding condition, Bogdanov's team—lacking scientific expertise—could not meaningfully assess whether milestones were missed or what any miss indicated about the companies' prospects. In sum, Rigmora's milestone-based argument for avoiding capital commitments is fabricated.

***Third*,** Rigmora conditioned discussion of further funding on the imposition of severe extracontractual conditions. Rigmora refused to engage even in budget *discussions* for the clinical-stage companies until ATP agreed to kill other (already budgeted) "Early-Stage Companies." JX-1318 at -359; *see* Bogdanov Dep. 255:4–256:13. In holding viable companies hostage, Rigmora plainly indicated that its refusals were service of a bad faith purpose untethered to the structures and objects of the LPA.

Under *Braganza*, decisions are questioned where "the result is so outrageous that no reasonable decisionmaker could have reached" it. *Braganza* at [24]; *see Hayes v. Willoughby* [2013] UKSC 17 at [14] (quoted in JX-1574 (Bloch Opening) ¶ 55) (outlining duty of rationality). The standard examines both whether the

decision-maker considered irrelevant matters or failed to consider relevant ones, and whether the ultimate decision was so perverse that no reasonable person could have reached it. JX-1588 (Phillips Opening) ¶ 86 (acknowledging this formulation). Bogdanov's email meets both prongs. First, relying on the false premise that Rigmora had "no outstanding capital commitments," Bogdanov emphasized irrelevant backward-looking milestone analysis, falsely claiming that the milestones were preconditions for funding; conversely, he ignored the companies' forward-looking potential and urgent funding needs. Then, he reached the perverse conclusion that seven diverse companies uniformly had "no way for a path to commercial success." *See* JX-1574 (Bloch Opening) ¶ 90. When the email conditioned budget discussions for viable clinical-stage companies on ATP's agreement to kill unrelated early-stage companies, its decision was so commercially irrational and logically disconnected from the clinical companies' merits that no reasonable limited partner could have imposed such a condition in good faith.

Braganza duties are designed to prevent and remedy these arbitrary, capricious, and bad faith exercises of discretionary power.

IV. Rigmora Breached Its Obligations Under The LPA To Meet Capital Calls For Companies With Approved Budgets.

A. Rigmora Anticipatorily Breached LPA ¶ 5(a).

Paragraph 5(a) of the LPA allows the GP to call capital in amounts equal to the LP's Contingent Subscription, LPA ¶ 5(a)(i), or in amounts sufficient to enable the Partnership to invest in projects with approved budgets, LPA ¶ 5(a)(ii)(E). The LPA is clear that [redacted] LPA ¶ 5(a)(i).

Notwithstanding these terms, Rigmora's May 15 Email communicated its intention not to contribute capital to the "Early-Stage Companies" by asserting that "any further capital calls would not be in accordance with the milestones and business plans set out in the agreed budgets for the Early-Stage Companies" and insisting that ATP "agree[ ] to wind down or liquidate the Early-Stage Companies." JX-1318 at -359.

This Court has not hesitated to find repudiation under analogous circumstances:

> Trematerra did not have the right to refuse to comply with his obligations under the LLC Agreement because he personally thought that "the basis of the deal has changed." Trematerra made capital commitments to the Company. Those capital commitments were not conditioned on a particular business plan. Trematerra had to fulfill his capital commitments if the Company called on him.

PJT Holdings, LLC v. Costanzo, 2025 WL 1417531, at *7 (Del. Ch. May 15, 2025). Here too, Rigmora refuses to answer capital calls for reasons outside the LPA.

Rigmora cannot identify any provision of the LPA that allows it to refuse a capital call based on a milestone. Instead, Rigmora expert Dr. Ilonna Rimm opined merely that "Rigmora's decision to decline to pay further capital calls was reasonable and aligned with established norms in biotech investing." JX-1579 (Rimm Opening) ¶¶ 72–106. But she does not explain why purported "established norms in biotech investing" can modify Rigmora's obligation under Paragraph 5(a). In any event, Rimm is wrong: Mark Robbins will testify that "Rigmora's across-the-board decision to discontinue and withhold funding from the Portfolio Companies, including the Preclinical Companies, is inconsistent with how [he] would expect a reasonable investor in life sciences companies to act." JX-1573 (Robbins Opening) ¶¶ 160–64.

Rigmora's other justification for its repudiation and anticipatory breach—that it has no outstanding capital commitments—is fantasy. Whatever the total of contributions Rigmora has made to the Partnership, starting with Amendment 13 to the LPA in February 2019, it has repeatedly agreed that "[redacted]." Rigmora has not exhausted its capital commitments to Pools ATP V-1 and ATP V-2, where each of

the pre-clinical companies sit. JX-89 (LPA Am. 17) at -445 (new Paragraph 20(a)); *see also supra* Sections C, E.

As of May 15, 2025, Rigmora had contributed only [redacted] of its [redacted] capital commitment to Pools ATP V-1 and V-2. *Supra* Section E; JX-1623 at -251 ("Pool V-1 Total") Cell E54, "Pool V-2 Total" E100; JX-1339 at -512; JX-1301 at -821. It therefore had [redacted] left to contribute to Pools ATP V-1 and V-2 under the plain terms of LPA Amendment 17, Paragraph 20(a), and its Amended SAs. JX-1623 at -251 ("Pool V-1 Total") Cell E54, "Pool V-2 Total" E100; JX-1339 at -512; JX-1301 at -821; JX-89 (LPA Am. 17) (new Paragraph 20(a)) at -444.

As of May 15, 2025, Rigmora also had approved but unfunded budgets for these companies totaling at least [redacted]. JX-1609 at -649, Cells G8, G20.

Rigmora's present position that capital contributions outside of Pool ATP V-1 and ATP V-2 reduced its capital commitment to Pools ATP V-1 and ATP V-2 is contrary to the express terms of the contract, as Phillips admits. Phillips Dep. 254:14–256:12.

As discussed in Background Section I, the Fund has been harmed because the pre-clinical companies' development efforts have ground to a halt. As Harrison, Yanchik, and Liras will testify, these companies had meaningful value before May 15, 2025, have lost a material portion of that value as a result of Rigmora's breach,

and continue to lose value every day in amounts that the parties agree are difficult to quantify.

Under these circumstances, the Court should order specific performance of Rigmora's obligation to answer capital calls under the LPA. *W. Willow-Bay Ct., LLC v. Robino-Bay Ct. Plaza, LLC*, 2009 WL 458779, at *5 (Del. Ch. Feb. 23, 2009) ("A party may urge performance of the contract judicially by suing for specific performance[.]").[20]

B. Rigmora Actually Breached Paragraph 5(a).

ATP will also present evidence that Rigmora actually breached its obligations by refusing its contractual commitment to contribute funds in response to the May 30 Capital Calls.[21] On May 30, the GP called [redacted] in capital for the pre-clinical companies as well as Replicate, Marengo, and Ascidian and [redacted] in

[20] Phillips opines that the only remedies available under Cayman law for anticipatory breach are rescission or affirmation, but admits that Delaware law "determines the nature of the remedy, including the availability of equitable remedies such as injunction or specific performance." JX-1588 (Phillips Opening) ¶ 173.

[21] Pursuant to Rule 15(b), ATP is entitled to amend the pleadings to conform to evidence of actual breach. *Cantor Fitzgerald, L.P. v. Cantor*, 1999 WL 413394, at *2 (Del. Ch. June 15, 1999) ("Rule 15(b) … allows this Court to deem a complaint amended to conform to the evidence in the absence of prejudice."). Rigmora would suffer no prejudice from amendment; it had ample opportunity to, and in fact did, adduce evidence regarding the May 30 Capital Calls during discovery. Harrison Dep. 289:10–16 (Rigmora counsel inquiring as to May 30 Capital Calls).

ATLS fees and partnership expenses. *See* JX-1387 at -896; JX-1388 at -905; JX-1390 at -734; JX-1391 at -740; JX-1392 at -743; JX-1393 at -755; JX-1394 at -761; JX-1395 at -770; JX-1396 at -773; JX-1397 at -776; JX-1398 at -788; JX-1399 at -800. With the exception of Replicate, for which the GP issued a revised capital call on June 1, 2025, the May 30 Capital Calls were due on June 13. *See* JX-1387 at -896; JX-1388 at -905; JX-1390 at -734; JX-1391 at -740; JX-1392 at -743; JX-1393 at -755; JX-1394 at -761; JX-1395 at -770; JX-1396 at -773; JX-1397 at -776; JX-1398 at -788; JX-1399 at -800. The revised Replicate capital call was due June 16, 2025. JX-1415 at -921. It is undisputed that Rigmora failed to answer the May 30 Capital Calls. PTO ¶ 78. Rigmora thus breached its obligations under Paragraph 5(a) to answer capital calls when due.

Rigmora's argument that it had no outstanding capital commitments is without merit for the reasons discussed above. As to the pre-clinical companies and Replicate, Rigmora had unfunded capital commitments with respect to Pools containing those companies—ATP V-1 and ATP V-2—and approved budgets that were more than sufficient to cover the [redacted] million called. *See supra* Section H.

As to Pool ATP V-3 companies Marengo and Ascidian, Rigmora similarly had unfunded capital commitments and budgets. As discussed above and as the evidence at trial will show, Amendment 20 created Pool ATP V-3 and required approximately [redacted] in new capital commitments to it, more than [redacted]

[redacted] of which was uncalled as of May 30, 2025. *Supra* Background Section D. As of May 30, 2025, [redacted] of Marengo's approved budget, and [redacted] of Ascidian's approved budget remained uncalled. *See* JX-1396 at -773; JX-1392 at -743; JX-1400 (Verified Complaint) ¶ 9. Rigmora thus had capital commitments and approved budgets against which these May 30 Capital Calls could be made.

To the extent Rigmora argues that Amendment 20 did not increase its capital commitments because it was not accompanied by an amended SA, it ignores that Amendment 20 must be interpreted in light of the full factual matrix. JX-1574 (Bloch Opening) ¶ 25. That factual matrix includes the May 26, 2021 Amendment 20 "Outline" showing the Parties' expectation that Amendment 20 would result in "remaining unfunded capital commitments." JX-195 at -185. Against that factual matrix, the fact that the parties did not execute an amendment to the SA cannot bear the weight that Rigmora would place on it.

Rigmora also ignores the fact that its own contemporaneous documents reflect both that Rigmora considers itself bound to fund budgeted capital commitments and that its capital commitments extend to the full amounts committed under Amendment 20. JX-1142 at -201.

V. Rigmora Is In Default Of Its Funding Obligations.

LPA Paragraph 5(c) sets forth the authority of the General Partner to call capital and the obligation of a limited partner to make capital contributions when

due. If an LP fails to make a capital contribution within five days after it is due, the GP may issue a Default Notice. If the LP fails to cure within thirty days of a Default Notice, by automatic operation of the contractual provisions, the LP becomes a Defaulting Partner. Pursuant to the terms of the LPA, the GP may then impose consequences, including the Default Charge.

There is no dispute that Rigmora failed to contribute capital in response to the May 30 Capital Calls. The latest was due on June 16. ATP issued Default Notices on June 17, 2025, *see, e.g.*, JX-1620, but an *ex parte* order in the later-filed Cayman Islands litigation enjoins the GP from "taking any [further] steps to designate, deem or treat the Plaintiffs as a 'Defaulting Partner' … or enforce any purported 'Default Notice' or 'Default Charge' against the Plaintiffs; … arising out of or in relation to the Plaintiffs' non-payment of the capital calls issued by the Defendant on 30 May 2025 and 1 June 2025 respectively" (the "Cayman Order").

Rigmora did not cure its Default by the date listed on the Default Notices. It would thus be a Defaulting Partner but for the Cayman Order. Accordingly, ATP seeks an order declaring that Rigmora breached its obligations under the LPA to fund and approve budgets sufficient to qualify as a Defaulting Partner.[22]

[22] The GP does not seek any relief contrary to Paragraph 1 of the Cayman Order, and will not take any steps subsequent on this relief in breach of the Cayman Order.

Rigmora's defense is limited to two points: first, that it was not obligated to make any contribution in response to the capital calls, and second, that the imposition of any Default Charge should be limited only to its interests in pools that retain Preferred Units and Investment Common Units. Blöchlinger Dep. 104:24–105:1. The first argument is addressed *supra.* Rigmora's second argument makes no sense. At the time the Global Default Provision was written, all of the Fund's investments were tracked in terms of Preferred Units (reflecting capital contributed) and Investment Common Units (reflecting profit participation). There were no investments that were *not* based on the concept of units. Even Rigmora's own expert recognizes that "a subsequent change in the factual matrix which was not anticipated by the parties and was, on a true analysis, 'unthinkable' at the time they concluded their contract, can be taken into account and may justify construing that contract so as to accord with their original (assumed) intentions rather than conferring a wholly unjustified and fortuitous benefit on one of them." JX-1588 (Phillips Opening) ¶ 58. Given that the Global Default Provision as originally written unequivocally applied to a Default relating to any investment, and there is no reason to think that the Parties intended to change that scope by abandoning the concept of units, a Cayman court would likely construe the Global Default provision to apply to all investments and pools, whether they involved units or not.

VI. Specific Performance Is The Proper Remedy For Rigmora's Breaches.

ATP seeks the equitable remedy of specific performance, over which this Court has jurisdiction. *Endowment Rsch. Gp. v. Wildcat Venture P'rs*, 2021 WL 841049, at *6 (Del. Ch. Mar. 5, 2021). ATP's First Cause of Action is to compel performance with Rigmora's obligation to consider new portfolio company budgets, including specific performance "compelling [Rigmora] to consider reasonable budgets in good faith." Compl. ¶ 164. This is a well-established equitable remedy. *See BAE Sys. Info. & Elec. Sys. Integration v. Lockheed Martin*, 2009 WL 264088, at *5, 7 (Del. Ch. Feb. 3, 2009) (declining to dismiss claims that an agreement "require[d] the parties to 'meet together as necessary to coordinate their pursuit activities'"); *Great-West Invs. v. Thomas H. Lee P'rs*, 2011 WL 284992, at *9-10 (Del. Ch. Jan. 14, 2011) (denying dismissal of a claim for specific performance of a contract requirement to negotiate in good faith). Further, ATP has asked the Court to fashion a more flexible, tailored remedy that would deem Rigmora to have waived its right to approve budgets and permit ATP to call capital for clinical-stage portfolio companies. Compl. ¶ 163-64. Equity provides the flexibility enjoin Rigmora from invoking a budget approval condition it wielded in bad faith. "Equitable remedies ... are distinguished by their flexibility, their unlimited variety, their adaptability to circumstances, and the natural rules which govern their use." *In re Oxbow Carbon LLC Unitholder Litig.*, 2018 WL 3655257, at *3 (Del. Ch. Aug. 1, 2018), *vacated*

on other grounds, 202 A.3d 482 (Del. 2019). ATP asks the Court to "employ judicial principles and tools creatively so as to effect justice…." *Id*. This Court can provide "a more certain, prompt, complete, and efficient remedy than is available at law" because only specific performance or an equitable order authorizing ATP to invest in companies with budget requests foreclosed by Rigmora can salvage the Fund and the medical promise of its portfolio companies. *United BioSource LLC v. Bracket Holding Corp*., 2017 WL 2256618, at *4 (Del. Ch. May 23, 2017).

VII. ATP Complied With the LPA By Bringing This Action.

ATP's Count V requests that the Court declare that it did not violate the LPA in bringing this action. Dkt. 1. ATP has not violated the LPA in bringing this action because (i) the LPA authorizes ATP to act within its discretion when a limited partner breaches, and (ii) ATP did not violate its duty of care. Indeed, it is Rigmora that has violated the LPA by bringing its retaliatory winding up petition in Cayman.

A. ATP Is Authorized to Bring This Action.

The LPA specifically requires that ATP, ***in its sole discretion***, take action in the face of a breaching limited partner. Paragraph 18(g)(iv) states:



[redacted]

LPA ¶ 18(g)(iv) (emphases added).

ATP has an obligation to obtain a "[redacted]" for the Fund and other LPs when another LP breaches the LPA. *Id*. As discussed *supra*, Rigmora breached its obligations when it made clear it did not intend to meet its funding commitments and refused to approve new budgets. ATP had an obligation to the Fund and other limited partners to act—and the LPA gives it broad discretion to do so. Further, the LPA bars Rigmora from claiming that ATP violated its fiduciary duties for bringing such an action. *Id.*

Based on the plain language of the LPA, ATP was within its rights as the GP to file this action in an attempt to obtain a favorable result for the Fund in response to Defendants' breach, and it is Rigmora that breached its obligations by filing the Winding Up Petition. ATP requests a declaration that under Cayman law it complied with the LPA, including Paragraph 18(g)(iv), by bringing this action.

B. ATP Did Not Violate Its Fiduciary Duties in Bringing this Action.

Even if the Court does not find that Defendants breached the LPA, ATP still did not violate the LPA in bringing this action. Paragraph 2(g) of the LPA provides the standard of care for the general partner:



LPA ¶ 2(g) (emphasis added).

Under Delaware law, a determination of whether the general partner is acting in good faith is based on whether the general partner reasonably believed that their actions were in the best interest of the partnership. *Brinkerhoff v. Enbridge Energy Co., Inc.*, 159 A.3d 242, 253-54 (Del. 2017); *see also Allen v. El Paso Pipeline GP Co., LLC*, 113 A.3d 167, 178 (Del. Ch. 2014), *aff'd*, 2015 WL 803053 (Del. Feb. 16, 2015) (TABLE).

ATP filed this action in the face of significant loss for the Fund. ATP is seeking to enforce the Fund's contractual rights and Rigmora's obligations to continue to provide funding and approve budgets.

In seeking to vindicate the Fund's rights and protect its portfolio companies, ATP has not violated the standard of care through willful fraud, misconduct or gross negligence; Rigmora makes no allegations otherwise. Dkt. 57 at 96–99. Rigmora asserts only that ATP had unclean hands because ATP refused "to provide information on the portfolio companies." This is factually untrue, and even if it were true does not amount to willful misconduct or gross negligence. *See Metro Storage Int.'l LLC v. Harron*, 275 A.3d 810, 844 (Del. Ch. 2022) ("gross negligence has its own special meaning that is akin to recklessness"). Further still, Defendants admit that ATP routinely informed ***Rigmora*** of the performance and status of the Portfolio Companies. *See, e.g.,* JX-1293 at -687, JX-1214 at -610, JX-1212 at -887.

As such, under Delaware law, ATP is not in breach of its fiduciary obligations, nor has ATP has violated the LPA in bringing this Action.

CONCLUSION

For the foregoing reasons, the Court should enter judgment in ATP's favor.

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EXHIBIT H

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IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

ATP III GP, LTD., in its capacity as General Partner of ATP Life Science Ventures, L.P.,	)	
Plaintiff,	)	
v.	)	C.A. No. 2025-0607-KSJM
RIGMORA BIOTECH INVESTOR ONE LP and RIGMORA BIOTECH INVESTOR TWO LP,	)	**REDACTED PUBLIC VERSION EFILED: November 20, 2025**
Defendants.	)	

PLAINTIFF ATP III GP, LTD.'S POST-TRIAL REPLY BRIEF

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Dated: November 12, 2025

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TABLE OF MAY 30 CALLS

Portfolio Company	Pool	Amount Called[1]	Approved Budget[2]	Remaining Budget As Of Call[3]	Remaining Budget After Call	Unfunded Commitment In Pool As Of Call[4]	Unfunded Commitment In Pool After Call	Set-Off[5]
Pools ATP V-1 and ATP V-2								
Deep Apple	ATP V-2	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	
Aethon	ATP V-2	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
Replicate	ATP V-2	[redacted][6]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
Evercrisp	ATP V-2	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
Red Queen	ATP V-2	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	
Apertor	ATP V-2	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	

[1] *See* JX-1622 (listing all capital calls, including the May 30, 2025 capital calls).

[2] *See* JX-1621 (listing all approved budgets by portfolio company).

[3] *See* JX-1622 (calculating remaining approved budget for each portfolio company after each capital call).

[4] *See* JX-2000 (providing the unfunded capital commitment for each pool). For Pool V-3 the total unfunded capital commitment has been reduced by the amount of budgeted uncalled commitment for Intergalactic Therapeutics, Inc. prior to its bankruptcy. *See* JX-1087 (Tab "Summary" at Cell G28). For Pools V-1 and V-2 the total unfunded capital commitment reflected in JX-2000 is reduced by the capital calls for Initial and Apertor that were paid on May 22, 2025. JX-1356; JX-1299; JX-1301.

[5] *See* JX-2130 at 4, 6 (explaining payments made to portfolio companies and towards pools after May 30, 2025).

[6] This reflects the amount in the amended capital call issued for Replicate on June 1, 2025. JX-1415.

Portfolio Company	Pool	Amount Called[1]	Approved Budget[2]	Remaining Budget As Of Call[3]	Remaining Budget After Call	Unfunded Commitment In Pool As Of Call[4]	Unfunded Commitment In Pool After Call	Set-Off[5]
Initial	ATP V-1	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	
Marlinspike	ATP V-2	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	
ATLS Fees/ Expenses	ATP V-1/ V-2	[redacted]				[redacted]	[redacted]	[redacted][7]
Pool ATP V-3								
Marengo	ATP V-3	[redacted]	[redacted]	[redacted]	[redacted][8]	[redacted]	[redacted]	
Ascidian	ATP V-3	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
ATLS Fees/ Expenses	ATP V-3	[redacted]				[redacted]	[redacted]	[redacted]

[7] The set-off for the ATLS Fees and Expenses was calculated pro rata based on the amount of the fee that was allocated to that pool in the May 30, 2025 capital call. JX-1411 at 3; JX-2130 at 6.

[8] The remaining budget for Marengo and Ascidian reflect the remaining budget after the payment of Rigmora's portion of the capital call as well as Seth Harrison's and Les Pommes.

PRELIMINARY STATEMENT

Rigmora's post-trial brief ("Rigmora's Brief") offers the same fictitious rationale for refusing to meet its capital contribution obligations under the LPA as it presented in Yuri Bogdanov's May 15 email, asserting that Rigmora's capital contributions were capped (making all funding of the portfolio voluntary) and that capital contributions for the Fund's preclinical companies with approved budgets were excused because they were behind on achieving milestones.

Rigmora offers no cogent explanation for evidence that Rigmora faces an ongoing liquidity crisis and that its funding default and refusal to negotiate new budgets is central to Yuri Bogdanov's strategic decision to "drastically reduce" Rigmora's commitments to ATP. Indeed, at trial neither Bogdanov nor Dmitry Rybolovlev offered any credible support for Rigmora's defenses or its allegation that ATP has mismanaged Rigmora's investments in the Fund or the portfolio companies. In fact, none of its defenses hold up against the plain terms of the Limited Partnership Agreement ("LPA") or common sense.

In its opening post-trial brief, ATP demonstrated that the May 30 Calls were authorized under the LPA and that Rigmora breached its obligation to contribute capital in response to them. Rigmora's primary argument to the contrary is that it has exhausted its capital commitments to the Fund and therefore can refuse to contribute capital even when called against approved Project budgets and decline to

consider new budgets. This defense depends on a purposeful mis-reading of the text of the LPA, which since 2019 has made clear that capital contributions "shall … be accounted for separately on a Pool-by-Pool basis." Rigmora's general counsel himself confirmed Rigmora's adherence to this concept when he reminded a junior analyst as recently as January 2025 that "we have always to look at the investments at a pool by pool basis." Rigmora knows that these words are fatal to its defense, and so it ignores them in its Brief. But when Rigmora's contributions are viewed, as contractually required, on a "pool by pool basis," the fatal weakness in Rigmora's case is readily apparent: Rigmora has over [redacted] in outstanding commitments, with over [redacted] in remaining commitments to Pools V-1 and V-2 and over $88 million in commitments to Pool V-3.

Rigmora's focus solely on subscription agreements is misplaced. Rigmora ignores that an LP's contingent subscription can be increased either through a subscription agreement or an "equivalent thereof," words both parties' experts acknowledge would encompass other methods of increasing an LP's commitment. Such equivalents include signed writings like Amendment 20. While Rigmora dwells on the lack of a "list of partners" setting forth each partner's contingent subscription amounts, it acknowledges that the purpose of such a list is putting the LPs on notice of the total commitment amounts—a purpose that was amply served

in Rigmora's case by exhibits to each capital call putting Rigmora on notice of the remaining amount of its commitment. Rigmora's CFO admitted at trial that Rigmora never contested those amounts.

Rigmora's next line of defense is that it was contractually entitled to reject the May 30 Calls because the preclinical companies had allegedly missed milestones described in their original investment memoranda. This provides no justification for Rigmora's failure to contribute capital called on May 30 for Marengo and Ascidian, two clinical stage companies. But this defense fails in any event because the LPA gives ATP the discretion to manage the affairs of the Fund and the right to call capital in accordance with outstanding capital commitments and approved budgets. The parties incorporated milestones into the latest budget for Replicate, but other than that single instance where it was expressly agreed, there is no basis to impose a milestone-based condition on ATP's right to call capital against approved budgets in the absence of an express agreement.

Rigmora also claims that its non-payment of the May 30 Calls should be excused because they were too large and ATP issued them "in bad faith." This argument fails because the overwhelming weight of the evidence shows that ATP called capital within the scope of remaining capital commitments and approved budgets, and in sums intended to meet the reasonable six-month funding

requirements of portfolio companies that were approaching their cash-out dates. While Rigmora cites the contents of a single email from outside deal counsel suggesting that the transmittal of capital calls would put "pressure" on Rigmora, that does nothing to address the fact that ATP had a right to call capital and each of the portfolio companies had an immediate and ongoing need for funding. Indeed, Rybolovlev himself acknowledged that it was reasonable for a startup to maintain six months of capital on its balance sheet, and that's exactly what ATP called.

ATP's opening post-trial brief also demonstrated that Rigmora breached its implied contractual duty under the *Braganza* doctrine to consider new budgets in good faith. Rigmora's defense centers on the remarkable proposition that, absent express contractual provisions stating otherwise, limited partners in Cayman exempted limited partnerships possess an unfettered license to act in bad faith when exercising contractual discretion, free from any duty of honesty, rationality, or good faith consideration. Even Rigmora's expert, Mark Phillips KC, struggled to defend this position under questioning, unable to answer directly whether the LPA allows Rigmora to act in bad faith. Rigmora's vigorous, absolute denial of any implied constraints on its exercise of its discretion to approve budgets is telling: it otherwise struggles to defend its conduct.

In its Brief, Rigmora argues that Bogdanov's May 15, 2025, email (the "May 15 Email") was not an ultimatum, conditioning further negotiation of new budgets on ATP's agreement to wind down or liquidate the Fund's preclinical assets, but rather Bogdanov's "responding" to ATP's reallocation proposal. Of course, the May 15 Email did more than "respond" to Harrison, who had withdrawn the proposal after a contentious meeting with Rigmora's counsel. It coercively conditioned the discussion of new budgets on ATP's agreement to shutter seven functioning companies with hundreds of employees. None of Rigmora's arguments is sufficient to excuse Rigmora's breach of its duties to act rationally and in good faith when it sent the May 15 Email.

For each of these breaches, ATP is entitled to specific performance as set forth in its proposed order. Rigmora's arguments to the contrary are wrong. Where ATP was able to cover a portion of the May 30 Calls—$18.6 million of the $105 million Rigmora owes—elsewhere serves at most to offset that portion of Rigmora's obligations, not satisfy them. As to budget approvals, Rigmora's obligation to consider new budgets in good faith is sufficiently definite, and the court retains the option to deem those budgets approved, as ATP explained in its opening brief.

ATP is also entitled to a declaration that the default provisions in the LPA remain unchanged. While Rigmora makes much of the fact that ATP has "dropped

any request for a determination that it is entitled to impose a 'Default Charge,'" it fails to acknowledge that this change was compelled by *ex parte* injunctive relief it obtained in the Cayman Islands after this case had already been filed. Rigmora's Brief also omits any reference to Rigmora's current argument in the Cayman "winding up" proceeding that the judgement of this Court is not deserving of recognition in the Cayman courts because ATP has not adhered closely enough to the terms of that injunction in arguing its case here. In any event, Rigmora continues to dispute that the default provisions of Paragraph 5(c) apply to all of its holdings in the Fund and argues instead that they have been amended to apply to only a subset of investments. There is thus an "actual controversy" that a declaration of this Court will resolve.

Likewise, ATP has a basis to seek a declaration that the LPA's exculpation clause applies to this action, and the ripeness of that dispute is clear, among other reasons because Rigmora continues to argue in the Cayman winding-up petition that it "lost confidence" in ATP because ATP wrongfully brought this action. Of course, as ATP proved at trial, Rigmora's loss of confidence has nothing to do with Harrison's management of the Fund and everything to do with Bogdanov's decision to drastically reduce Rigmora's financial commitments to the Fund.

Finally, ATP has not relinquished its right to attorneys' fees. If its requests for fees is not yet perfected, ATP intends to seek an award of its fees and expenses after this Court renders judgment in its favor.

ARGUMENT

I. Rigmora Breached Its Obligation To Provide Funding

A. Rigmora Has Outstanding Funding Commitments

As set forth in ATP's opening brief,[1] Rigmora has over [redacted] in unfunded commitments, including [redacted] in unfunded, approved budgets and [redacted] in committed but as yet unbudgeted capital commitments. Those unfunded commitments are allocated, as all commitments to ATP are, into specific pools: over [redacted] in remaining commitments to Pools V-1 and V-2 (of which around [redacted] was budgeted); and around [redacted] in commitments to Pool V-3 (of which approximately [redacted] was budgeted).[2] This money consists of the remaining budgeted and unbudgeted capital commitments from Rigmora's combined [redacted] in commitments that Rigmora agreed to contribute to the pools of the Fund over the decade-plus-long relationship between ATP and Rigmora. That total is readily calculable, as ATP detailed in its opening brief. Since the

[1] Dkt. 265 at 54-58.

[2] *Id.* at 54.

adoption of Amendments 13 and 17, the parties allocate committed capital to specific pools. Indeed, on January 13, 2025, Rigmora's own general counsel Patrik Blöchlinger instructed Rigmora's CEO Bogdanov and its analyst Zufar Iskhakov that Rigmora "have always to look at the investments at a pool by pool basis and cannot just see what we invested in total per investment."[3] Those pools today are ATP Pool IV, ATP Pools V-1 and V-2, ATP Pool V-3, and Pool Braeburn.

Pool IV [redacted] committed): The parties agree that Rigmora committed $1.425 billion in capital, split between Blue Horizon and Ezbon at [redacted] and [redacted] respectively, upon entering the LPA.[4] When the parties executed Amendment 20, Rigmora had contributed approximately [redacted] of its original commitment, which was designated to a pool renamed ATP Pool IV by the same amendment.[5] That contribution total is reflected in the Annex to Amendment 20.[6] And as explained in ATP's opening brief and ignored in Rigmora's Brief, the parties agreed to reduce the approximately [redacted] in remaining capital commitments to Pool IV to costs and expenses then-estimated at

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[3] JX-1639 at 3.

[4] Dkt. 265 at 7; Dkt. 269 at 32.

[5] JX-22 at 28 (showing [redacted] in contributions to-date by Ezbon and [redacted] in contributions to-date by Blue Horizon).

[6] *Id.*

$20 million and ultimately paid at [redacted].[7] Rigmora's total commitment to Pool IV is, therefore, [redacted].

Pools V-1 and V-2 ($1 billion committed): The parties agree that Rigmora agreed to commit $1 billion into Pools V-1 and V-2 upon entering Amendment 17, split between Blue Horizon and Ezbon at [redacted] and [redacted], respectively.[8]

Pool V-3 [redacted] committed): As established in ATP's opening brief, the parties also agreed to an aggregate commitment of $310.5 million into Pool V-3.[9] Contrary to Rigmora's objection that this "number does not appear anywhere in Amendment 20,"[10] this total derives directly from the Amendment's written text. As ATP explained in its opening brief, Amendment 20 created Pool V-3 with new Paragraph 22 to the LPA.[11] Paragraph 22(b) provides that Pool V-3 "shall have capital commitments of $500,000,000 including ***without limitation***: (i) [redacted] of capital deemed to have been contributed as provide below, (ii) the [redacted] of capital comprising the Prior Budgeted ATP V-3 Follow-on

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[7] Dkt. 265 at 14.

[8] *Id.* at 55-56; Dkt. 269 at 32.

[9] Dkt. 265 at 13.

[10] Dkt. 269 at 34.

[11] Dkt. 265 at 13-14, 56.

Investments, and (iii) approximately [redacted] in investments anticipated to be made in new Portfolio companies."[12] The $310.5 million is the total remaining commitments after reducing the total $500 million by the deemed commitment of [redacted].[13] The parties further agreed that the commitments into Pool V-3 would be split among Ezbon, Blue Horizon, Harrison, and the Les Pommes trust at percentages of [redacted] respectively.[14] Rigmora's share of this total commitment is [redacted].

Pool Braeburn [redacted] committed): ATP's opening brief likewise established the commitments into Pool Braeburn. Amendment 20 established Pool Braeburn with a commitment of [redacted].[15] Amendment 20 further provided that the commitment to Pool Braeburn would also consist of "any additional securities of Braeburn acquired by the Partnership after the date of Amendment 20" and fees and expenses related to Pool Braeburn.[16] Rigmora agreed to be solely

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[12] JX-1061 at 6-7 (new paragraph 22 to the LPA).

[13] *Id.*

[14] *Id.*

[15] JX-1061 at 3-5 (new Paragraph 21 to the LPA).

[16] *Id.*

responsible for the obligations to Pool Braeburn.[17] As ATP's former CFO Bill Engels testified in deposition, the parties did, in fact, purchase [redacted] in additional Series B shares for Braeburn and called approximately [redacted] in expenses to Pool Braeburn.[18] As Engels further testified, in connection with Amendment 22, the parties executed a settlement agreement in December 2024 to resolve a dispute Rigmora initiated in Cayman.[19] Pursuant to that settlement, the parties waived the then-remaining [redacted] in commitments to Pool Braeburn.[20] As Engels explained, these commitments "netted out to a total obligation of [redacted]."[21]

These commitment amounts across the pools total over [redacted] from Rigmora, as set forth in a summary chart Engels prepared in connection with his deposition.[22] Contrary to Rigmora's suggestion that reaching this total requires

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[17] *Id.* at 3-5 (new Paragraph 21(b) of the LPA providing "All capital invested in the Partnership in respect of Pool Braeburn or attributable to expenses or liabilities of Pool Braeburn … shall be called from and contributed by the [Rigmora] exclusively…").

[18] Engels Dep. 355:3-15.

[19] *Id.* 340:22-341:13.

[20] *Id.*; *Id.* 355:16-21.

[21] *Id*. 355:22-356:4.

[22] JX-1565.

some level of guess work,[23] one need only perform basic arithmetic. And Rigmora has long known how ATP reaches this figure, both because it has received the source information in capital calls for four years running, in each and every capital call following the execution of Amendment 20, and because Engels walked through the calculation at length in his deposition.[24]

In its Brief, Rigmora contends that the Court should look at its cumulative contributions across all pools, which it purports to be "in excess of" its total commitments as set forth in its subscription agreements.[25] However, ATP's claim is supported by overwhelming evidence to the contrary. Whatever the parties' disagreement as to the total commitment across all pools, Rigmora's remaining [redacted] commitments reside in Pools V-1, V-2, and V-3, as ATP established in its opening brief.[26] There also is no dispute that Pool IV and Pool Braeburn have no outstanding commitments, save for any expenses that might be validly called pursuant to Amendment 20. What remains are unfunded commitments to Pools V-1, V-2, and V-3. Rigmora has contributed [redacted] of its aggregate $1 billion

[23] Dkt. 269 at 35.

[24] Engels Dep. 353:2-356:25.

[25] Dkt. 269 at 38-40.

[26] Dkt. 265 at 54-58.

commitment to Pools V-1 and V-2,[27] leaving [redacted] in unfunded commitments to Pools V-1 and V-2 ($178 million of which is budgeted). And of the total $500 million in commitments to Pool V-3, contributions to Pool V-3 inclusive of the [redacted] deemed contribution total [redacted],[28] along with [redacted] in remaining budget allocated to a portfolio company Intergalactic prior to its filing for bankruptcy. What remains is an [redacted] commitment to Pool V-3, [redacted] of which commitment is Rigmora's.[29]

Rigmora misleadingly contends that it has contributed over $2.69 billion dollars, leaving far less funding remaining.[30] This analysis is flawed in two respects. First, it requires double counting funds previously contributed and transferred to a different pool, as explained below. And second, it fails to look at Rigmora's investments on a pool-by-pool basis, as its general counsel has instructed it to do.

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[27] *See* JX-2000 (Tab "Pool V-1 Total" Cell E54; Tab "Pool V-2 Total" Cell E100); JX-1341; JX-1356.

[28] *See* JX-2000 (Tab "Pool V-3 Total" Cell E49; Tab "Amendment Summary" Cell U16).

[29] *See supra* Table of May 30 Calls (chart showing the amount of each May 30 Call by portfolio company compared to the approved outstanding budget and outstanding capital commitment in each pool).

[30] Dkt. 269 at 38-39.

Rigmora's own expert and its Brief admit to improper double-counting.[31] In Dr. Strebulaev's report, upon which Rigmora relies, he explains that removing "deemed contributions" included in his total contribution figure results in $2.3 billion in total contributions, as ATP calculates.[32] ATP does count these contributions. ATP simply counts them the appropriate number of times: once. These "deemed contributions" are not found or new money but funds previously contributed into Pool IV for companies moved to Pool V-3 and Pool Braeburn with Amendment 20.[33] These funds are counted when contributed into Pool IV.

Rigmora characterizes ATP's analysis counting these contributions once as refusing to exclude deemed commitments.[34] Not so. ATP's total commitment figure excludes deemed contributions because they represent transfers of already-committed (and thus already counted) capital, not new commitments. The contribution total must use the same methodology—if deemed contributions are excluded from the commitment figure, they must also be excluded from the contribution figure.

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[31] *Id.* at 38; *id.* at 38 n. 227.

[32] JX-1576 (Strebulaev Opening) ¶ 55.

[33] *See* JX-2000 (showing in cells F130 and F131 of tab "Pool V-4 Total" that two distributions from Pool IV were made to Pools V-3 and Braeburn).

[34] Dkt. 269 at 39.

Including these deemed contributions in both contributions and commitments would yield a total of [redacted] in Rigmora's commitments and an identical remaining commitment amount that ATP advances in this litigation.[35] Incredibly, Rigmora calculates this same total in its Brief[36] but wields it as a sword to assert that ATP's analysis and the parties' contemporaneously executed documents memorializing the increased commitments after Amendment 20 "were riddled with inconsistencies and errors and imply a far higher Contingent Subscription [redacted] than the GP defends in this litigation."[37] Not so. Whether one excludes the deemed commitments into Pool V-3 and Pool Braeburn from the overall contributions and commitment amount—as ATP does to arrive at its over [redacted] figure—or one includes the deemed commitments to yield the [redacted] figure, either way, Rigmora's unfunded commitments remain the same: $545 million, consisting of nearly [redacted] in remaining commitments to Pools V-1 and V-2 and over [redacted] in remaining commitments to Pool V-3.

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[35] [redacted] is the sum of [redacted] in commitments established *supra* plus the "deemed contributions" into Pool V-3 and Pool Braeburn previously contributed into Pool IV. *See* JX-2000 (Tab "Pool V-4 Total" Cells F130, F131) (reflecting prior contributions to Pool IV); *id.* (Tab "Pool V-3 Total" Cell E9; Tab "Pool Braeburn Total" Cell E9) (reflecting the transfer of these contributions to Pool V-3 and Pool Braeburn).

[36] Dkt. 269 at 33.

[37] *Id.*

Rigmora argues that ATP has waived its right to challenge the arguments made in its opposition brief because ATP did not separately anticipate and address this analysis in its opening brief.[38] This is, of course, inaccurate. The prohibition against reserving arguments for reply "does not prevent a movant from responding to arguments made in an answering brief. That is the whole purpose of a reply."[39]

The second fundamental flaw in Rigmora's analysis is that it ignores a pool-by-pool assessment of its obligations. Rigmora evaluates commitments and contributions in the aggregate, without any regard for how commitments and contributions fell into the pools.[40] That logic would have the effect of avoiding commitments to one pool by making additional contributions to another pool. It would render commitments to specific pools meaningless if Rigmora could simply redirect those funds to other companies.

Even if Rigmora were correct that Amendment 20 did not add commitments to Pool V-3 and Pool Braeburn, its argument would only mean that Rigmora is not obligated to fund $36 million of the May 30 Calls for Pool V-3 and fees attributable

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[38] *Id.* at 39.

[39] *Acme Markets, Inc. v. Oekos Kirkwood, LLC*, 2025 WL 2172302, at *4 (Del. Super. Ct. July 31, 2025) (citing *Wilmot v. Marriott Hurghada Mgmt., Inc.*, 2016 WL 2599092, at *4 (D. Del. May 5, 2016)).

[40] Dkt. 269 at 38.

to that pool. As set out in ATP's opening brief, on May 30 and June 1, ATP called $51.8 million in capital to portfolio companies in Pools V-1 and V-2.[41] Another [redacted] was called in ATLS Fees and [redacted] in partnership expenses shared across the pools.[42] Finally, ATP called nearly [redacted] in capital for Marengo and Ascidian in Pool V-3.[43] Even if Rigmora were right that all calls to Pool V-3 over the [redacted] in budgets approved prior to Amendment 20 were voluntary or "aspirational,"[44] that would only relieve it of an obligation to fund further calls into Pool V-3 and Pool Braeburn. It would *not* relieve its obligation to fund the calls for ATLS Fees and for unfunded, approved budgets for portfolio companies in Pools V-1 and V-2 that still fit comfortably within the remaining unfunded commitments from its $1 billion subscriptions to Pools V-1 and V-2.[45]

Unable to meaningfully dispute its over half a billion in outstanding commitments, Rigmora resorts to distractions that have no bearing on the merits.

First, Rigmora contends that the LPA "call[s] for a new Subscription Agreement any time the parties wish to add new Contingent Subscriptions" which

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41 Dkt. 265 at 59.

42 *Id.* at 61.

43 *Id.* at 60-61.

44 Dkt. 269 at 37.

45 Dkt. 265 at 59-60.

must be memorialized in a number next to the limited partner's name on a list of partners.[46] That argument is contradicted by the express language to the LPA, which allows for increased subscriptions through amendments to the LPA. Paragraph 3(c) of the LPA provides that a Limited Partner may make "an additional subscription" through the execution of a "Subscription Agreement (***or the equivalent thereof***)."[47] Both parties' Cayman Law experts agree that "or the equivalent thereof" indicates that the Subscription Agreement is not the only method by which a Limited Partners' contingent subscription could be amended.[48] Bloch opined that "a written amendment to the LPA" would be "effective" to "provide additional capital."[49] Further, there is no provision in the LPA that limits "or the equivalent thereof" so that an amendment to the LPA, particularly one listing out the additional subscription amounts, would be insufficient to increase Rigmora's contingent subscriptions. And as Rigmora notes, the purpose of a list of partners, in part, is to

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[46] Dkt. 269 at 30-32.

[47] JX-0001 at 12 (emphasis added).

[48] JX-1584 (Bloch Rebuttal) ¶ 17 ("As I read his report, Mr. Phillips does not say that a capital commitment could not be agreed in a different way, and I agree with this."); Phillips Dep. Tr. 181:18-181:24 (agreeing that a subscription agreement is "not necessary" to create an additional subscription of capital).

[49] JX-1584 (Bloch Rebuttal) ¶ 17.

put limited partners and ATP on notice of their total commitment amounts.[50] As soon as the commitments expanded beyond executed subscription agreements with Amendment 20, ATP began including an exhibit with each capital call putting each limited partner with funding commitments on notice of the amount of capital remaining for them to fund.[51] This amply satisfies any notice obligation.

Second, Rigmora contends that ATP "seems to suggest (without argument) that portfolio company budgets can increase Contingent Subscriptions," despite this position being rejected by the parties' experts.[52] Suffice it to say, ATP's argument, as set forth *supra* and in its opening brief, derives the commitment figures from specific amendments to the LPA and subscription agreements, *not* budget approvals.

Third, Rigmora cites letters submitted to potential landlords and ATP's website claiming $2.5 billion under management.[53] Rigmora's reliance on these

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[50] *See* Dkt. 269 at 32 ("Together, these provisions ensure that the precise amount of the callable Contingent Subscriptions is known to the LPs and the GPs.").

[51] In a footnote, Rigmora claims that Engels admitted that Exhibit A to the capital calls did not accurately reflect capital commitments. Dkt. 269 at 33 n.203. Setting aside that the quoted text is a question from Rigmora's counsel, Rigmora mischaracterizes Engels's testimony. Engels explained that *after* the capital call upon which ATP relies, ATP had to reconcile how some fees and expenses over time were allocated to the relevant pools on Exhibit A, and that as such some of the numbers were off nominally in later version of Exhibit A.

[52] Dkt. 269 at 34.

[53] *Id.* at 35-36.

extracontractual documents is misplaced. Indeed, Rigmora repeatedly brings to the Court's attention that Cayman law precludes "tak[ing] into account subsequent conduct as an aid to construction" and that what matters is the "meaning at the time of the contract."[54] In this case, the clear meaning of Amendment 20 controls.

Fourth, Rigmora speculates that certain of the commitments into Pool V-3 might have been "just a change in plan for a portion of the $1 billion in existing commitments that had yet to be drawn."[55] But that new theory is a factual impossibility. Rigmora does not deny that it is solely responsible for the commitments to Pool V-1 and V-2;[56] whereas, Harrison and Rigmora each have commitment obligations to Pool V-3.[57] Pool V-3, therefore, cannot share funds with Pools V-1 and V-2. And Rigmora contends that the [redacted] in commitments to Pool V-3 for "previously approved" budgets were merely a "reallocation of an existing commitment" from Pool IV.[58] But even if you construe that amount as a reallocation of commitments in Pool IV prior to Amendment 20, Rigmora does not

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[54] Dkt. 269 at 33-34 n.204.

[55] *Id.* at 36.

[56] *See* Dkt. 265 at 54-55 & n.242; JX-1622 at 1-10.

[57] Dkt. 265 at 13-14 (citing JX-1061 at 6-9 (LPA Am. 20 ¶ 2 (new Paragraph 22)), 56.

[58] Dkt. 269 at 36.

deny that there was only approximately [redacted] in uncalled commitments to Pool IV prior to Amendment 20. That leaves under [redacted] in funds from Pool IV, far below the remaining [redacted] in commitments to Pool V-3. An increase in capital commitment was required, as explained *supra*.

And Rigmora's extratextual characterization of the commitments to Pool V-3 as "aspirational,"[59] is belied by the plain text of Amendment 20, which states that "ATP V-3 *shall have capital commitments*."[60] "Shall" is construed prescriptively as imposing an obligation, not an aspiration.[61] Indeed, Rigmora's Phillips agreed that "shall" is mandatory in the context of the Pool V-3 commitment.[62]

Fifth, Rigmora attempts to avoid evidence of pre-contract correspondence between the parties laying out their understanding of the capital commitments provided in Amendment 20.[63] But Rigmora does not dispute that under Cayman law

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[59] *Id.* at 36.

[60] JX-1061 at 7 (emphasis added).

[61] *Dalby v. Kastner*, 2025 WL 2491158, at *33 (Del. Ch. Aug. 29, 2025) ("Delaware courts construe the term 'shall' as creating a mandatory obligation."); *Shall*, Black's Law Dictionary (11th ed. 2019) (defining "shall" as "is required to," noting that it connotes "the mandatory sense that drafters typically intend and that courts typically uphold").

[62] JX-1588 (Phillips Report) ¶ 109 (characterizing "shall" as "mandatory"); Phillips Dep. 204:16-205:21 (stating that "shall" with respect to the Pool V-3 commitment "is not permissive").

[63] Dkt. 269 at 33.

"the factual matrix in which [a contract] was executed" is relevant to and informs the meaning of a contract, without needing a finding of ambiguity.[64] The factual matrix includes "absolutely anything which would have affected the way in which the language of the document would have been understood by a reasonable man" and was "reasonably available to the parties."[65] The parties' correspondence immediately prior to the amendment discussing ***more*** "remaining unfunded capital commitments" than existed prior to the amendment is clearly part of that matrix.[66]

In a last ditch effort, Rigmora relies on form over substance, arguing that if the Court finds ambiguity it should be resolved in Rigmora's favor because ATP did not properly maintain an exhaustive list of limited partners that included each partner's capital commitments and contributions.[67] But as explained *supra*, ATP has provided each of the limited partners that have funding commitments with notice of their remaining commitments in exhibits to each capital call served since June 24, 2021. The hypothetical risk that a partner with no commitment is not reflected in

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[64] Dkt. 265 at 53.

[65] *Id.* at 53 n.236 (citing *Invs. Comp. Scheme Ltd v. West Bromwich Bldg. Soc.* [1997] UKHL 28, 912-913).

[66] *Id.* at 11-12.

[67] Dkt. 269 at 37-38.

these charts does not reduce or excuse Rigmora's commitment. Rigmora's own math confirms that these records are consistent.

B. Rigmora Breached Its Express Duty To Meet Capital Calls For Companies With Approved Budgets

1. Milestones Are Not Prerequisites To Capital Calls Unless Budgets Say So.

As ATP explained in its opening brief, Rigmora's failure to meet the May 30 Calls breached the express terms of the LPA.[68] Rigmora's CEO, Bogdanov, admitted that each of the portfolio companies in the May 30 Calls had approved budgets with unfunded amounts and that the May 30 Calls were within those unfunded amounts.[69] The May 30 Calls were therefore "in accordance with" an approved budget. That should be the end of the matter.

Rigmora's "milestone" argument is a lynchpin of its trial defense. According to Rigmora, the calls for "Initial, Apertor, Evercrisp, Red Queen, Deep Apple, Marlinspike and Aethon were not 'in accordance with' the companies' budgets because those companies had not achieved the milestones that would unlock the next budgeted tranche of funding."[70] Not so.

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[68] Dkt. 265 at 58-66.

[69] Tr. (Bogdanov) 342:2-5; Dkt. 265 at 59-60 (explaining that the May 30 capital calls were within approved budgets).

[70] Dkt. 269 at 40-41.

First, Rigmora fails to cite a single *fact* witness to support its argument that even where there is an approved budget, ATP's right to call capital under the LPA is constrained by the tranche forecasts contained in investment memoranda, and instead relies entirely on the testimony of its retained expert Ilona Rimm.[71] This is a legal conclusion, and expert testimony is generally not admissible to support legal conclusions like contract construction.[72] Rimm was retained solely to testify about milestone compliance and not the construction of the LPA.

Second, Rigmora's milestone defense finds no support in the LPA itself because it improperly conflates "approved budgets" with the contents of investment memoranda.[73] Unable to identify any provision of the LPA explicitly stating that milestones must be met before ATP may call additional capital (because there is none), Rigmora resorts to sophistry. For example, Rigmora argues that the term "approved budgets" cannot be interpreted without reference to the investment memoranda because they are "one page approvals form[s]."[74] This, of course,

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[71] Dkt. 269 at 41 n.240.

[72] *In re Columbia Pipeline Grp., Inc. Merger Litig.*, 2022 WL 2902769, at *4-5 (Del. Ch. July 14, 2022) (precluding expert testimony on contract interpretation because it "invade[d] the province of the court").

[73] Dkt. 269 at 40-43.

[74] Dkt. 269 at 42.

ignores the fact that Rigmora and ATP included milestones in budget approvals when they intended for funding to be contingent on the achievement of milestones.[75]

Rigmora also argues that the LPA's "reference to 'accelerated' calls would be meaningless if 'approved Project budget' meant only the bottom-line number listed on the one page approvals form and excluded the IMs…"[76] Under the LPA, capital can only be called "on a basis accelerated from that set forth in an approved Project budget" where ATP makes a written representation to the LPs that "it has a good faith belief that the Project (or portion thereof covered by such budget) will be completed within the aggregate amount budgeted therefor" and a "reasonably detailed and diligenced presentation supporting such representation."[77]

There is reason to believe that the parties were able to discern between Project budgets and investment memoranda when negotiating the terms of the LPA. While investment memoranda included forecasts as to when particular tranches of capital would be called,[78] there is no reason to believe that the parties intended the

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[75] *See* Tr. (Harrison) 33:23-34:5; *see also* JX-1192 at 2 (Replicate budget stating that "Amounts dedicated to the EBV program may only be called commencing upon the closing of the LATAM deal for rabies.").

[76] Dkt. 269 at 42.

[77] JX-0004 at 2 (LPA ¶ 5(a)(ii)).

[78] For example, the original investment memorandum for Nine Square anticipated calling [redacted] in the third quarter of 2020, [redacted] in the first

achievement of a particular milestone to be a prerequisite to calling the next tranche of capital once a budget was approved.

The "acceleration" provision of the LPA does not mention milestones. It only requires ATP to meet certain requirements if it calls capital earlier than was provided in an approved Project budget. Rigmora conflates the release of capital with the satisfaction of milestones, but in the context of the "acceleration" clause they are distinct: it is logical that a capital call could be accelerated in comparison to an approved Project budget if a company met a milestone but consumed more capital to do so than had been budgeted. Rigmora's acceleration argument incorrectly assumes that could never happen.

Third, in the absence of textual support for elevating milestones to the status of a precondition to calling capital, Rigmora relies on general propositions about the importance of milestones in investing.[79] However, stating, as some investment memoranda do, that financing is "milestone-driven"[80] does not mean that the LPA prohibited ATP from calling capital unless milestones were met. Rigmora also

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quarter of 2021, [redacted] in the fourth quarter of 2021, [redacted] in the third quarter of 2022, and [redacted] in the fourth quarter of 2023. *See* JX-0053 at 37-38.

[79] *See* Dkt. 269 at 42-43.

[80] *See, e.g.*, JX-309 at 3.

argues that Ehlers's testimony "reinforced" the "importance" of milestones.[81] But Ehlers testified to his understanding that milestones were not contractually required to be met before additional funding can be called, and that such "flexibility" was "one of the selling points" of ATP.[82]

Ultimately, Rigmora's assertions as to the importance of milestones avoid the matter at hand: whether milestones are a contractual prerequisite to calling capital. For the reasons explained above and in ATP's opening brief, they are not.

2. The June 1 Capital Call For Replicate Was Warranted.

Rigmora argues that the capital call for Replicate was not in accordance with an approved budget because, per Amendment 22, it was contingent upon Rigmora realizing at least $300 million from the sale or financing of its interest in the Braeburn royalty.[83] Rigmora is incorrect.

In December 2024, when Amendment 22 was executed, the parties expected the then-current, unfunded budget amounts for each of the five Projects listed in the

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[81] Dkt. 269 at 42.

[82] Ehlers Dep. 69:5-70:24. Rigmora's argument that such flexibility is a "red herring" is based solely on Rimm's testimony that a new budget approval would be required, Dkt. 269 at 43, and Rimm's testimony regarding contract interpretation is entitled to no weight, *In re Columbia*, 2022 WL 2902769, at *4-5.

[83] Dkt. 269 at 43-44.

new Paragraph 26—including Replicate—to last for a matter of weeks.[84] In the case of Replicate, the parties anticipated that the budget would run out in February 2025. Paragraph 26 called for the discussion of a new budget sufficient to enable Replicate to operate for a period twelve months after that.[85] For budgets negotiated in the one-year period after Amendment 22, the parties agreed that any approval would be contingent on Rigmora realizing $300 million from a Braeburn royalty sale.[86] The plain language of Paragraph 26 reflects their agreement that those five companies' 12-month funding needs would ultimately be met. Any other interpretation of Amendment 22 would produce the absurd result that five portfolio companies could be allowed to fail notwithstanding their value to the portfolio or their promise of clinical success.

3. The May 30 Calls Were Properly Issued.

Rigmora pivots to an argument that the May 30 Calls are not permitted under the LPA and the ELP Act because they were not issued in good faith.[87] Rigmora's attack on ATP's integrity has no basis in fact.

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[84] JX-1068 at 4.

[85] *Id.*

[86] *Id.*

[87] Dkt. 269 at 44-45.

First, Rigmora misleadingly states that "[t]he GP's correspondence demonstrates that the capital calls were made at least in part to 'put pressure on' the LPs."[88] The only evidence of "pressure" is a single line in a single email by a transactional lawyer as he was walking between meetings.[89] This provides no insight into ATP's subjective motivation. In any event, Rigmora has no basis for its assumption that "pressure" is an improper purpose—after all, the point of a capital call is to prompt an LP to provide funding.

Second, Rigmora's contention that ATP was "pressing the LPs to agree to relinquish their contractual budget approval rights"[90] is fanciful. ATP does not have and never did have that ability. The evidence shows that its suggestion that it be given the discretion to allocate funds among companies based on need is entirely appropriate in the context of a proposal to switch "from a multicompany model to a single-company model" in which assets were being shared between companies.[91]

Third, Rigmora contends that ATP delayed capital calls to maximize its litigation position,[92] but it mischaracterizes the evidence, which shows that ATP was

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[88] *Id.* at 45.

[89] Dkt. 269 at 45 (citing JX-2155 at 2).

[90] Dkt. 269 at 45.

[91] Harrison (Oct.) Dep. 149:14-154:25.

[92] Dkt. 269 at 45.

concerned about balancing the portfolio companies' urgent need for funding with its (correct) belief that Rigmora would immediately file suit in the Cayman Islands as soon as ATP issued capital calls.[93] Of course, that's what Rigmora did.

Finally, Rigmora states that the calls were improper because ATP did not intend to distribute all the capital.[94] However, Yanchik testified that ATP's reason for doing so was entirely proper: to avoid the possibility that funds distributed to portfolio companies—many of which were starved of funding and facing bankruptcy—would be subject to attachment by creditors.[95]

Rigmora's argument that the size of the May 30 Calls somehow shows bad faith is equally unavailing. As Harrison testified, ATP set the size of the May 30 Calls to enable the portfolio companies to have six months of funding from the date that the Fund received corresponding capital.[96] That testimony is uncontroverted, and in fact Rybolovlev agreed that six months of liquidity is an appropriate amount of on-hand cash.[97]

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[93] *See* JX-2138 at 1-2; Harrison (Oct.) Dep. 194:3-195:13.

[94] Dkt. 269 at 45.

[95] Yanchik Dep. 218:23-219:22.

[96] Tr. (Harrison) 110:8-21.

[97] Tr. (Rybolovlev) 392:8-11.

Rigmora emphasizes how the anticipated amount of capital calls evolved leading up to this lawsuit.[98] But the evidence was clear that ATP ran scenarios and considered calling capital sufficient to fund ongoing work at the portfolio companies for periods of weeks, three months, six months, and the end of calendar year 2025-2026.[99] The fact that it considered numerous scenarios is evidence of diligence, not bad faith.

C. Rigmora Breached Implied Duties To Consider Budgets In Good Faith, Honestly, and Rationally

ATP established in its opening brief that *Braganza* imposes contractual duties that fetter Rigmora's exercise of its discretion with respect to budgets. In response, Rigmora tries to characterize all good-faith duties as fiduciary in nature and not contractual. But *Braganza* speaks to the implication of contract terms, including not just good faith but also honesty and rationality. Rigmora's Brief is wrong on the doctrine, just as it is wrong on the facts.

1. The Cayman ELP Act Does Not Limit Contractual Duties.

Section 19(2) of the ELP Act provides that a limited party "does not owe any fiduciary duty in exercising any of its rights or authorities."[100] From there, Rigmora

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[98] Dkt. 269 at 45-47.

[99] Tr. (Harrison) 152:5-19.

[100] JX-1634 at 15, ELP Act, Section 19(2).

leaps to the conclusion that limited partners can never owe any duties of good faith, honesty, or rationality, unless express.[101] That syllogistic reasoning fails for multiple reasons.

First, contractual duties can exist, even in the context of fiduciary relationships. As Bloch explains, "[n]ot all of the duties owed by fiduciaries are of a fiduciary nature."[102] Rigmora's view that "fiduciary duties are wider" than contractual and so *include* contractual duties is unfounded.

Second, Section 19(2)'s scope is limited to fiduciary duties. Section 19(2) clarifies that limited partners, unlike general partners, do not owe the special duties of loyalty and care that arise from fiduciary relationships. As Bloch explains: "Absent section 19(2) an exempt limited partner might be treated as owing fiduciary duties in the same way that non-exempt-limited partners do. Addressing this is, at least, one obvious purpose of section 19(2)."[103] The Court should reject Rigmora's interpretation of Section 19(2) as permitting limited partners to act in bad faith in the absence of an express contract term requiring good faith. Rigmora's own expert

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[101] JX-1588 (Phillips Opening) ¶ 72 ("Fiduciary duties are wider than good faith duties and it follows that exclusion of fiduciary duties excludes goof faith duties.").

[102] JX-1586 (Bloch Rebuttal) ¶ 60; *see* JX-1575 (Bloch Opening) ¶¶ 51, 53; JX-2108, *Sheikh Al Nehayan v Kent* [2018] EWHC 333; [2018] 1 CLC 216 at [167]-[174].

[103] JX-1586 (Bloch Rebuttal) ¶ 61.

struggled to answer whether Rigmora could be free to exercise its discretion to deny budgets "in bad faith."[104]

Third, the duties recognized in *Braganza* arise from principles of contract interpretation, not fiduciary relationships. *Braganza* itself involved an employment contract where the employer owed no fiduciary duties to the employee's estate or his widow, yet the UK Supreme Court implied constraints on the employer's discretion to determine the employee's cause of death.[105]

2. Rigmora's Authorities Do Not Support Its Position.

Rigmora relies on a statement in *Gulf Investment Corp v The Port Fund LP* that Section 19(1) creates a "one-way obligation" for the general partner to act in good faith.[106] But Justice Parker was addressing whether limited partners owe fiduciary duties arising from their status as partners, not whether contractual terms can impose duties on how discretion is exercised.[107]

The *Re Torchlight Fund LP* decision also does not support Rigmora's position. The court there emphasized that "the scope of *the fiduciary duties* owed

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[104] Phillips Dep. 93:8-97:17.

[105] JX-2102, *Braganza v BP Shipping Ltd* [2015] UKSC 17 at [18]-[30].

[106] Dkt. 269 at 49.

[107] *See* JX-1586 (Bloch Rebuttal) ¶ 63.

by the defendants to the plaintiff ... are to be defined by the terms of the contract."[108] In other words, contractual provisions can modify, limit, or create duties—exactly what ATP argues here, as implication is a contractual principle that arises from the structure and objects of the contract. As Phillips admitted in deposition, the *Torchlight* court acknowledged that a *Braganza* analysis did "not have any relevance" there, where the general partner's duties were set forth in the LPA and ELPA.[109]

Rigmora then misreads *Horlick v. Cavaco* as supporting unlimited discretion for non-fiduciaries.[110] *Horlick* actually confirms the *Braganza* framework, stating, "[i]t might be necessary to imply a *Braganza* duty to contractual discretions where those decisions affect the rights of both parties to the contract, giving rise to a conflict of interest."[111] That is the situation here: Rigmora's discretion over budget approvals directly affects ATP's ability to fund portfolio companies and fulfill its obligations. The *Horlick* court found no *Braganza* duty only because the defendant had an "absolute contractual right" to accept or reject offers based solely on its own commercial interests and not because such duties cannot be implied in partnership

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108 JX-2061, FSD 103 of 2015 at [59].

109 Philips Dep. 116:2-8.

110 Dkt. 269 at 50.

111 JX-2049, *Horlick v Cavaco* [2022] EWHC 2935 (KB) at [175(2)].

agreements.[112] Here, by contrast, Rigmora's budget approval discretion exists within a framework of mutual obligations where both parties must "discuss new budgets" and where approved budgets trigger pre-existing binding capital commitments.

3. The LPA Creates A Framework Of Mutual Obligations *And* Competing Interests, Not Absolute, Isolated Rights.

Consistent with *Horlick*, a key question is whether Rigmora's rights exist within a framework where "the interests of both parties" must be considered.[113] Unlike the cases finding absolute rights, in the LPA, Rigmora's approval discretion operates within an intricate structure of mutual obligations:

- **Mandatory Discussion**: The parties "shall discuss new budgets," indicating cooperation and participation, not that one party may categorically accept or reject new budgets (¶ 26).
- **Consequential Obligations**: Approved budgets trigger mandatory capital contributions that "may not [be] less than the full amount" (¶ 5(a)(i)).
- **Ongoing Management Duties**: ATP must continue managing portfolio companies while Rigmora controls funding.
- **Shared Purpose**: The structure exists to develop portfolio companies for eventual profitable exit.

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[112] *Id.* at [177].

[113] JX-2049, *Horlick*, at [175]-[189].

Both parties bear responsibility to the partnership—GP for management, LPs for funding—creating precisely the "conflict of interest" in the LPs' exercise of discretion that necessitates *Braganza* duties. That conflict is stark here, as recent events indicate: Rigmora can protect its own liquidity by refusing budgets and thus evading capital commitments, which harms ATP's ability to operate the Fund and meet its own obligation to the portfolio companies.

Rigmora's claim that implied duties would "strip" its rights misunderstands how contractual restraints work and why they are implied when necessary for business efficacy.[114] *Braganza* duties do not eliminate discretion but rather ensure discretion is exercised without undermining and perverting the purpose of the contract. *Braganza* constraints still permit Rigmora to have rejected budgets, just not refuse all budgets based on extraneous capital strategy, condition approvals on unrelated demands, or dishonestly claim that no obligations exist.

4. Budget Approval Is An Evaluative Determination That Could Fail The *Wednesbury* Standard.

As ATP has explained, the *Wednesbury* standard provides the framework for reviewing discretionary decisions by examining both the decision-making process

[114] *See* Dkt. 265 at 66-67.

and the reasonableness of the outcome.[115] Rigmora artificially attempts to distinguish *Braganza* as involving a "factual determination" while budget approval involves mere "approval or disapproval."[116] But *Braganza* duties apply where discretion involves "making an assessment or choosing from a range of options, taking into account the interests of both parties."[117] That describes budget evaluation; the fact that the ultimate decision is binary (approve/disapprove) does not alter the evaluative nature of the underlying assessment. Indeed, the employer's ultimate decision in *Braganza* was binary (suicide/accident) but required reasoned evaluation.[118] Similarly, budget approval, particularly in concert with discussion, involves evaluative determinations about scientific merit and company progress, reasonableness of expenditures, alignment with investment strategy, and potential for commercial success.

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[115] Dkt. 265 at 72; JX-1575 (Bloch Opening) ¶ 55; *Assoc. Prov. Picture Houses Ltd v. Wednesbury Corp.* [1948] 1 KB 223.

[116] Dkt. 269 at 50.

[117] JX-2049, *Horlick*, at [169] (quoting *Mid Essex Hospital Services NHS Trust v Compass Group* [2013] EWCA Civ 200 at [83]).

[118] Further, in JX-2099, *Socimer International Bank Ltd v Standard Bank Ltd* [2008] EWCA Civ 116, a precursor to *Braganza*, the court implied terms to a bank's discretion to value debt instruments—not a factual determination but an evaluative commercial judgment. As *Horlick* confirms, *Braganza* duties apply to "a contractual right to value something." JX-2049, *Horlick*, at [175(2)].

5. The May 15 Email Proves Breach Of *Braganza* Constraints And Paragraph 26.

ATP has demonstrated that Bogdanov's May 15 Email was the culminating act in violation of *Braganza* constraints as well as the obligation to discuss budgets. Rigmora defends the Email as a rational continuation of negotiations, claiming it merely "revived the recently withdrawn reallocation proposal."[119] But this revisionist history does not withstand scrutiny.

The May 15 Email falsely claimed that "the SLP do not presently have any outstanding capital commitments," despite approximately [redacted] in approved but unfunded capital, and [redacted] outstanding commitments in total.

Moreover, Rigmora's new story that the May 15 Email was a "proposal" aligned with ATP's reallocation proposals is misleading. ATP's proposals maintained funding for the most promising early-stage programs while prioritizing clinical companies. Bogdanov's demand was categorical: shut them down. Rigmora also characterizes the May 15 Email as rational because ATP itself had proposed reallocation and because "salvaging value" meant finding ongoing collaboration.[120] But the true purpose was not to negotiate, as the May 15 Email itself clarified, stating

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[119] Dkt. 269 at 21.

[120] *Id*.

that consideration of new clinical-stage budgets hinged on ATP agreeing to "wind down or liquidate the Early-Stage Companies."[121]

Further, the decision regarding the clinical-stage budget requests was clearly based on "considerations wholly extraneous to the subject matter"—an irrational process that fails the *Wednesdbury* standard.[122] The "extraneous consideration" was Rigmora's plan to "drastically reduc[e] investments in biotech" as a means of creating a "cash buffer" for Rigmora.[123] Otherwise, Rigmora would not be conditioning the approval of budgets *for clinical-stage companies that it clearly considered valuable and worth funding* on ATP's waiver of Rigmora's obligation to fund already approved budgets *of other companies*.

Finally, the timing reveals bad faith, regardless of Rigmora's point that budgets were addressed in May 22 correspondence.[124] That privileged, "without prejudice" budget communication does not alter the coercive, bad-faith nature of the May 15 Email and Rigmora's budget process generally. By May 15, and even more so by May 22, clinical-stage companies were due to run out of money within weeks when Bogdanov refused to discuss their budgets unless ATP first capitulated on the

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121 JX-1319 at 1.

122 *See* JX-2102, *Braganza*, at [28].

123 JX-440 at 2.

124 *See* Dkt. 269 at 23.

early-stage companies. The timing of any purported "proposal" confirms that Bogdanov was using the clinical companies' dire cash position as leverage to force ATP's hand on unrelated investments.

II. ATP Has Met Its Burden And Is Entitled The Relief It Requests

A. ATP Established Specific Performance As The Appropriate Remedy.

ATP explained in its opening brief why specific performance is the correct remedy for Rigmora's capital call and budget approval obligations under the LPA.[125] In its response, Rigmora raises two arguments for why it should not be obligated to pay its capital calls, but each falls short.

First, as to the presently outstanding capital calls, Rigmora argues[126] that, because ATP was able to secure another stream of Fund proceeds to direct to certain of the affected portfolio companies and fund expenses,[127] Rigmora should be excused from any specific performance obligations.[128] But at most, these payments of [redacted] should offset Rigmora's specific performance obligations of [redacted]

[125] Dkt. 265 at 76-80.

[126] Dkt. 269 at 47.

[127] JX-2130 at 4 (portfolio companies); *id.* at 6-7 (fund expenses).

[128] Dkt. 269 at 47.

[redacted].[129] Such an offset satisfies the balance of the equities, and specific performance of the outstanding obligations is still necessary to prevent harm to ATP and its portfolio companies.

Second, as to its ongoing capital call obligations, Rigmora wrongly argues that it is not presently under a legal obligation to approve future capital calls properly made against its contingent subscriptions and approved budget amounts.[130] But as discussed *supra* at Sections I.A–B, the remaining contingent subscription amounts, and the reasons for which capital may be called, are sufficiently definite and ripe to be adjudicated now.[131] This ripeness argument therefore also fails.

Rigmora also attempts to evade specific performance of its budget approval obligations, arguing that its responsibilities are not sufficiently definite to justify specific performance.[132] Not so. As discussed in detail, *supra* at Section I.C, and in ATP's opening brief, Cayman law provides a detailed framework for understanding Rigmora's obligations to approve budgets, and warrants either a Court ruling

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[129] JX-1388, JX-1390, JX-1391, JX-1392, JX-1393, JX-1394, JX-1395, JX-1396, JX-1397, JX-1398, JX-1415.

[130] Dkt. 269 at 48.

[131] *See Murfey v. WHC Ventures, LLC*, 2022 WL 214741, at *1 (Del. Ch. Jan. 25, 2022).

[132] Dkt. 269 at 59.

deeming the December 24, 2024 budget proposals approved or a ruling requiring Rigmora to meet its *Braganza* obligations with respect to budget approvals.[133]

B. ATP Can Seek A Declaration That The Global Default Provision Has Not Changed

As ATP explained, and as the structure and language of the LPA make clear, the LPA's Global Default mechanism, along with all its remedies including the Default Charge, applies to all investments, regardless of whether they make use of the Fund's vestigial "Preferred Units" and "Common Units" concepts.[134] Rigmora's conclusory statement to the contrary only belies Rigmora's jab that there is no "actual controversy."[135] The Court has the power to formulate a declaration that accurately and fully resolves the parties' dispute as it is now illuminated with the benefit of Rigmora's Brief.[136]

Rigmora's professed bewilderment over the fact that ATP no longer seeks a declaration that it is entitled to impose a default charge is itself evidence of

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[133] Dkt. 265 at 66-72.

[134] Dkt. 265 at 81-82.

[135] Dkt. 269 at 60-61.

[136] *See* Ct. Ch. R. 15(b)(2) ("When an issue not raised by the pleadings is tried with the parties' express or implied consent, it must be treated in all respects as if raised in the pleadings."); *see also Bamford v. Penfold, L.P.*, 2022 WL 2278867, at *25 (Del. Ch. June 24, 2022) ("The court is not bound to analyze the case solely through the counts presented in the pleadings[.]"), *aff'd sub nom. Manheim v. Ban*, 319 A.3d 268 (Del. 2024).

Rigmora's ongoing pattern of dishonesty in its dealings with ATP (and this Court) in relation to Rigmora's Cayman litigation. Rigmora has consistently tried to use its later-filed Cayman litigation to undermine this Court's jurisdiction. It sought and obtained an *ex parte* injunction in the Writ proceeding against ATP seeking default remedies in this first-filed action, and it abused this Court's grant of a trial adjournment to apply for the appointment of provisional liquidators ("PL"). Even after being forced to withdraw its PL application, Rigmora continues its campaign to undermine this Court's jurisdiction, recently filing a draft pleading asserting that any adverse judgment by this Court *should not be entitled to recognition in the Cayman Islands* because the relief sought would breach of the Writ Injunction. Despite ATP's representation in its opening brief to the contrary and Rigmora's conspicuous acknowledgment of that fact in its own Brief, Rigmora told the Cayman court as recently as October 31, 2025 that it intends to argue the so-called "Recognition Issue" at trial in the Cayman Islands. Rigmora thus continues to use the Cayman litigation to do what it has repeatedly assured this Court it will not do.[137]

[137] *See, e.g.*, Sept. 19, 2025 Hrg. Tr. 13:2-5 ("And I most assuredly want to disabuse the Court and my adversaries of any suggestion that we are trying to proceed in the Caymans and not in this Court"); Dkt. 233 at 1-2 (asserting that the LPs' requests in the Cayman action sought "to avoid interfering with the conduct of this litigation" and that "[t]he Cayman winding-up proceeding … does not substantially overlap with the matter before this Court").

C. ATP Has A Basis To Request A Declaration That The LPA's Exculpation Clause Applies To ATP's Filing Of This Action

As ATP explained, the LPA's exculpation clause applies to the filing of this action, and the Court should issue a declaratory judgment that the filing was "authorized," i.e., was permitted by the LPA and not in violation of any of ATP's duties under the LPA's exculpation clause.[138] Rigmora's two arguments in opposition fall short.

Rigmora claims that this dispute is "not ripe" because Rigmora does not yet seek money damages against ATP.[139] This ignores the fact that there is an ongoing and well-defined dispute sufficient to give rise to declaratory judgment jurisdiction. Ripeness is clear because Rigmora filed the Cayman winding up petition citing the filing of this Action as improper conduct for a general partner.[140] Rigmora also argues that only ATP has an interest in the resolution of this question.[141] Not so. ATP—on behalf of the Fund—needs certainty about whether the filing of this lawsuit was authorized under the LPA.

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[138] Dkt. 265 at 85-86.

[139] Dkt. 269 at 61-62.

[140] This narrative is false. Rigmora's supposed "loss of confidence" has nothing to do with a loss of confidence in ATP or Harrison, and everything to do with Bogdanov's plans to reduce Rigmora's commitments to ATP. *See* Dkt. 265 at 22-26.

[141] Dkt. 269 at 62.

D. ATP Has A Basis To Seek Attorneys' Fees And Litigation Costs

Rigmora's argument that ATP has "forfeited" its claim for attorney's fees is incorrect. ATP clearly sought "fees, costs, and expenses under the 'loser pays' principles of Cayman Island laws and the Common Law" in the Complaint.[142] Rigmora has not identified any instance in which ATP made a "voluntary, knowing, and intelligent[]" waiver of the right to attorney's fees, nor has it identified "an intentional relinquishment or abandonment" of attorney's fees on ATP's part.[143]

To the extent that a claim for attorney's fees has not been put properly before the Court, ATP will do so promptly upon entry of a judgment in its favor.

CONCLUSION

ATP respectfully requests that the Court grant the relief requested in Plaintiff's Proposed Final Judgment.

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[142] Dkt. 1 at 86.

[143] *New Enter. Assocs. 14, L.P. v. Rich*, 295 A.3d 520, 575 (Del. Ch. 2023).

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WORDS: 9,802 / 10,000

EXHIBIT I

CONFIDENTIAL
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Case No. 2025-0607-KSJM

IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

ATP III GP, LTD., in its capacity as general partner of ATP Life Science Ventures, L.P., Plaintiff, v. RIGMORA BIOTECH INVESTOR ONE LP and RIGMORA BIOTECH INVESTOR TWO LP, Defendants.	C.A. No. 2025 – 0607 – KSJM **CONFIDENTIAL**

Expert Report of Ilya A. Strebulaev, Ph.D.

Joint Exhibit
JX-1576
C.A. No. 2025-0607-KSJM

Expert Report of Ilya A. Strebulaev, Ph.D.

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I. Qualifications

1. I am the David S. Lobel Professor of Private Equity and Professor of Finance at the Graduate School of Business, Stanford University ("Stanford GSB"). I am also a Research Associate at the National Bureau of Economic Research. I received a Ph.D. in Finance from the London Business School, an M.A. in Economics from the New Economic School in Moscow, and a B.A. in Economics from the Lomonosov Moscow State University.

2. In addition to my general expertise in the area of financial economics, I have specific experience with respect to venture capital and other private capital, including academic research, teaching, consulting, and extensive interactions with venture capital practitioners and other private market participants in Silicon Valley and elsewhere. I developed a full-quarter MBA course on venture capital and early stage company financing at Stanford GSB, where I cover angel financing and venture capital practices on a large range of issues. I have been teaching it for more than ten years. I also developed a full-quarter MBA course on the economics of the private equity industry at Stanford GSB, where I cover many aspects of relationships between fund managers and their investors, including fund manager selection, structure of private equity funds, and fund returns. I have been teaching this course for five years. Over the years of teaching and developing these courses, I have closely interacted with hundreds of venture capital investors, including fund managers and fund investors, as well as early stage companies, and other private market participants and stakeholders.

3. I am the inaugural holder of the David S. Lobel Chaired Professorship in private equity, established at Stanford University in 2016 to promote research and teaching on private equity, including venture capital. I am also the founder and Faculty Director of the Stanford GSB Venture Capital Initiative that brings together academic researchers, students, and practitioners to advance our knowledge of venture capital. I also founded and for many years was Faculty Director of a Stanford GSB program, "The Emerging CFO: Strategic Financial Leadership Program," that has been attended by

hundreds of senior financial leaders from around the world. As part of the program, I have taught on the Silicon Valley venture capital industry.

4. I have actively participated in the venture capital industry as a consultant, which has involved work on a wide variety of operational and strategic issues. I consulted for venture capital funds, corporate venture capital organizations, and fund investors on a broad set of issues related to early stage investing, including contractual negotiations. I am also engaged in consulting for domestic and international companies and investors on various topics related to early stage investing.

5. I have published numerous articles in leading peer-reviewed finance and economics journals. My research includes studies on the activities of venture capitalists, how venture capitalists make decisions, and valuation of venture capital-backed companies. My research has been published in many academic journals, including the top three academic journals in finance: Review of Financial Studies, Journal of Finance, and Journal of Financial Economics. I have served on the Editorial Boards of two research publications: Finance Research Letters, and Management Science. My research has also been featured in a variety of public media, including The New York Times and The Wall Street Journal.

6. I have been awarded a number of academic awards for my research, including for research related to investments in early stage companies. My paper on early stage financing and venture capital decision making was awarded the First Place JFE Jensen Prize (for the best paper published in the Journal of Financial Economics in the areas of corporate finance and organizations in 2020) and the inaugural Doriot Award for the best private equity research paper. I also received the First Prize of the Brattle Group Prize for the best corporate finance paper published in the Journal of Finance in 2007, the Fama-DFA Prize for the best asset pricing paper published in the Journal of Financial Economics in 2011, the Trefftzs Award of the Western Finance Association, and the Best Paper Award of the Private Equity Research Consortium.

7. I have also received several awards for my teaching, including the Stanford MBA Distinguished Teaching Award and the Sloan Teaching Excellence Award, as well

as the inaugural Masters in Management Best Teacher Award at the London Business School.

8. Although the vast majority of my professional efforts have been devoted to research, teaching, and consulting, I have also served as an expert witness in litigation matters, including in matters related to the venture capital industry. **Appendix A** contains my full curriculum vitae, which includes additional details regarding my education and professional experience, including a list of my publications and a list of cases in which I have testified.

9. For my work in this matter, I am being compensated at my customary expert witness hourly rate of $1,725. Working under my direction and guidance, personnel at Compass Lexecon, a consulting firm, have assisted me in the preparation of this report. I also receive compensation based on the fees charged by Compass Lexecon. The opinions in this report are my own. Neither my compensation nor that of Compass Lexecon is contingent upon my findings, the testimony I may give, or the outcome of this litigation.

10. The materials I have relied upon in reaching the opinions and conclusions set out in this report are listed in **Appendix B**.

11. This report is subject to change or modification should additional information become available which bears on my analysis, opinions, or conclusions contained herein. I may also seek to respond to opinions or analyses proffered by other experts. I further reserve the right to amend or supplement this report on instruction of counsel or as a result of any motion or court order that may impact the nature or scope of claims and issues in this litigation. I may also prepare illustrative exhibits based on the contents of this report if I am called upon to testify at trial.

II. Background, Assignment and Summary of Conclusions

A. BACKGROUND

12. ATP III GP, Ltd. ("ATP" or "Plaintiff") brought suit against Rigmora Biotech Investor One LP ("Rigmora One") and Rigmora Biotech Investor Two LP

("Rigmora Two" and together "Rigmora" or "Defendant").[1] ATP is the general partner ("GP") for ATP Life Sciences Ventures, L.P. (the "Fund" or "ATP Fund"), whose "principal purpose … is to achieve returns on its capital by investing in pharmaceutical, life science, medical device and other medically-related companies and business projects."[2] ATP is led by Dr. Seth Harrison ("Dr. Harrison"), who is also a limited partner in the Fund, with a portion of Dr. Harrison's interests now held through another limited partner, Les Pommes LLC, a trust established for the benefit of his children.[3]

13. Upon the Fund's formation, its primary limited partners were Blue Horizon Enterprise Ltd ("Blue Horizon") and Ezbon International Ltd ("Ezbon").[4] Rigmora One and Rigmora Two are limited partners ("LPs") and investors in the Fund and obtained their interests in the Fund via transfer agreements executed with the former limited partners of the Fund, Blue Horizon and Ezbon, where Rigmora One is the successor to all the rights and obligations of Blue Horizon and Rigmora Two is the successor to all the rights and obligations of Ezbon under the First Amended and Restated Limited Partnership Agreement (the "LPA").[5]

14. Rigmora uses capital provided by the family trust of Dr. Dmitry Rybolovlev ("Dr. Rybolovlev") to invest in the life science industry via the Fund.[6] The Fund was formed in 2012 following initial discussions in 2010 between Dr. Harrison and Dr. Rybolovlev about forming a partnership to invest in the life sciences space.[7]

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1 ATP III GP, LTD., in its capacity as general partner of ATP Life Science Ventures, L.P., v. RIGMORA BIOTECH INVESTOR ONE LP and RIGMORA BIOTECH INVESTOR TWO LP, In the Court of Chancery of the State of Delaware, Verified Complaint, May 30, 2025 ("Complaint"), at 1.

2 ATP Life Sciences Ventures, L.P., Consolidated Financial Statements and Report of Independent Certified Public Accountants As of and for the Year Ended December 31, 2024, (ATP_00000253), at -263.

3 Complaint, ¶¶ 2 & 44.

4 First Amended and Restated Limited Partnership Agreement, November 1, 2012 ("LPA"), at 81 & Complaint, ¶ 21.

5 Complaint, ¶ 21; LPA; Assignment and Assumption Agreement between Blue Horizon and Rigmora Biotech Investor One, July 10, 2024 (ATP_00081653) and Assignment and Assumption Agreement between Ezbon International Limited and Rigmora Biotech Investor Two, July 10, 2024, (ATP_00081667), Exhibits 9 and 10 to Deposition of William Engels (ATP), August 7, 2025.

6 Complaint, ¶¶ 20-21.

7 Complaint, ¶¶ 27-28.

15. The Fund's structure changed over time as it was divided into pools and the pools were modified over time. **Appendix C** details the changes in the pool structure in the Fund. The first column of **Appendix C** shows the Fund's initial structure. Initially the Fund had a conventional fund structure consisting of a single set of assets and liabilities.[8] The remaining columns of **Appendix C** show how the Fund's structure changed over time as pools were created within the Fund.

16. Column B shows how the Fund's structure changed with Amendment No. 13 to the LPA, dated February 4, 2019; the structure of the fund was changed to consist of two separate investment pools, with Pool B consisting of new projects and Pool A all other projects.[9]

17. Column C shows the change to the Fund's structure on September 9, 2020. Amendment No. 17 to the LPA created a third pool (Pool C) which consisted of Kynos Therapeutics and any projects or portfolio companies arising on or after September 9, 2020.[10] The amendment also stated that Pool B will include the following portfolio companies: Chinook Therapeutics, Nine Square Therapeutics, and Initial Therapeutics.[11]

18. Column D shows the next change. Amendment No. 18 to the LPA, dated November 5, 2020, added two additional pools (Core Holdings Pool 1 and Core Holdings Pool 2) resulting in a total of five pools.[12] These two pools consisted of assets that may be distributed from Pool A, Pool B or Pool C. As detailed in **Appendix C** these pools do not have investments allocated to them.

19. Column E shows the changes from Amendment No. 19 to the LPA, dated November 27, 2020. Amendment 19 simply changed the names of three of the pools

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8 Apple Tree Partners IV, L.P. – Amendment No.13 to the LPA, dated February 4, 2019, at 1.

9 Apple Tree Partners IV, L.P. – Amendment No.13 to the LPA, dated February 4, 2019, at 1 ("[A]ssets and liabilities shall be divided into two separate pools. One Pool ('Pool B') shall consist of the assets, liabilities, income, gains, losses and expenses associated with the New Projects. . . and the other Pool ('Pool A') shall consist of all other assets, liabilities income, gains, losses and expenses.").

10 Apple Tree Partners IV, L.P. – Amendment No. 17 to the LPA, dated September 9, 2020.

11 Apple Tree Partners IV, L.P. – Amendment No. 17 to the LPA, dated September 9, 2020, at 1.

12 Apple Tree Partners IV, L.P. – Amendment No. 18 to the LPA, dated November 5, 2020, at 1-2.

whereby Company Building Pool A was renamed to ATP IV, Company Building Pool B was renamed to ATP V-1 and Company Building Pool C was renamed to ATP V-2.[13]

20. Column F shows the Portfolio Companies[14] and other portfolio companies in each pool as of the fourth quarter of 2020. The Early Stage Companies[15] are in red and the Remaining Companies At Issue[16] are in green. Kynos is not included because it was written off in 2020.[17]

21. The final change in the pool structure occurred via Amendment No. 20 to the LPA, dated June 21, 2021. Two new pools were added to the Fund, bringing the total number of pools to seven.[18] Pool Braeburn was created and its sole holding is the Fund's investments related to Braeburn Inc. ATP V-3 was created when investments from ATP IV were transferred by means of a deemed distribution and deemed contribution to ATP V-3.[19] The only remaining assets in pool ATP IV are contingency payments related to the sales or mergers of (1) Corvidia, (2) Syntimmune, (3) Tendyne, and (4) Tusker.[20]

22. Columns H and I show the Portfolio Companies and other portfolio companies in each pool as of the fourth quarter of 2021 and the first quarter of 2025.

23. **Appendix D** reports information about the Portfolio Companies, including a description of each company, date of the initial investment and the pool the investment is in within the Fund.

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13 Apple Tree Partners IV, L.P. – Amendment No. 19 to the LPA, dated November 27, 2020, at 1.
14 The Portfolio Companies are the 13 at-issue companies.
15 Early Stage Companies are: (1) Aethon Therapeutics, (2) Apertor Pharmaceuticals, (3) Deep Apple Therapeutics, (4) Evercrisp Biosciences, (5) Initial Therapeutics, (6) Marlinspike Therapeutics, and (7) Red Queen Therapeutics. *See* Complaint, ¶ 134.
16 Remaining Companies At Issue are: (1) Ascidian Therapeutics, (2) Aulos Bioscience, (3) Marengo Therapeutics, (4) Replicate Biosciences, (5) Nine Square Therapeutics Corporation, and (6) Nereid Therapeutics. *See* Complaint, ¶¶ 9 & 13.
17 ATP Life Science Ventures, LP, First Quarter 2025 Report as of March 31, 2025, (ATP_00004667), at -670.
18 Apple Tree Partners IV, L.P. – Amendment No. 20 to the LPA, dated June 21, 2021 ("Amendment 20"), at 1-5.
19 Amendment 20, at 1-5.
20 Amendment 20, at 4.

B. PLAINTIFF'S ALLEGATIONS

24. ATP alleges that Rigmora is (1) "preemptively refusing to fund capital calls" that Rigmora is contractually obligated to meet and (2) "arbitrarily and irrationally refusing to approve new budgets for more mature portfolio companies that have product candidates in active clinical trials, but whose initial funding has run out."[21] ATP further alleges that Rigmora's tactics "are simple: (1) for the portfolio companies with approved budgets, [Rigmora] preemptively refused to fund any future capital calls and explicitly warned ATP not to issue any further calls properly made against those budgets, other than those for de minimis shutdown costs; and (2) for companies without remaining budgeted amounts, [Rigmora] refused to approve any budget for continued operations, which refusal is neither commercially reasonable nor in good faith, thereby preventing ATP from issuing capital calls that [Rigmora] would be required to fund."[22]

C. ASSIGNMENT AND SUMMARY OF CONCLUSIONS

25. I was retained by Debevoise & Plimpton LLP, counsel for Rigmora, to (1) discuss the relevant background and industry practices related to venture capital investments, (2) review Rigmora's funding of the Fund through the end of May 2025, (3) determine whether the Early Stage Companies raised issues that would make a reasonable investor concerned about continuing to fund them, including assessing the Fund's most recent performance, and (4) determine if Rigmora's conditioning of the discussion of additional budgets for the six Remaining Companies At Issue on (i) ATP providing specific information on the Remaining Companies At Issue and (ii) ATP winding down the Early Stage Companies was reasonable investor behavior given the issues raised by these companies.

26. Based on my review and analysis of materials listed in **Appendix B**, as well as my experience and expertise, I have reached the following principal conclusions:

- Rigmora consistently provided substantial capital and was critical to the Fund's successes.

[21] Complaint, ¶ 1.
[22] Complaint, ¶ 3.

- The Early Stage Companies raised issues that would make a reasonable investor concerned about continuing to fund them.
- Rigmora's conditioning of the discussion of additional budgets for the Remaining Companies At Issue on (1) ATP providing specific information on the Remaining Companies At Issue and (2) ATP winding down the Early Stage Companies was reasonable investor behavior given the issues raised by these companies.

III. Venture Capital Industry Background

27. Before addressing the issues specific to this case, in this section, I provide a discussion of the venture capital ("VC") industry to provide a baseline understanding of the relevant concepts. The discussion relies heavily on my academic research and consulting experience, which together have involved extensive interactions with practicing venture capitalists and provided insights into hundreds of VC funds and firms they manage. For example, my co-authors and I surveyed venture capitalists at hundreds of VC firms in Silicon Valley and throughout the United States, which accounted for 63 percent of all U.S. VC assets under management.[23]

A. OVERVIEW

28. Venture capital is a form of private equity investment[24] focused on investing in high-growth, innovative, and risky companies.[25] In a typical structure, a VC-focused management company (i.e., VC firm) consisting of investment professionals serves as a general partner ("GP") managing various individual funds that may specialize by company stage, industry, and/or geography.[26] VC funds invest in companies (referred

[23] Gompers, Paul A., Will Gornall, Steven N. Kaplan, and Ilya A. Strebulaev, "How do venture capitalists make decisions?" *Journal of Financial Economics*, 2020 ("Gompers et al. (2020)"), at 172.

[24] Venture capital typically comprises investments in privately-held companies. Metrick, Andrew and Ayako Yasuda, Venture Capital & the Finance of Innovation, Third Edition (Hoboken, NJ: John Wiley & Sons, Inc., 2021) ("Metrick and Yasuda (2021)"), at 1-2.

[25] Gornall, Will and Ilya Strebulaev, "The Contracting and Valuation of Venture Capital-Backed Companies," in The Handbook of the Economics of Corporate Finance, Vol 1: Private Equity and Entrepreneurial Finance, 2023 ("Gornall and Strebulaev (2023)"), at 5. *See also* Brealey, Richard A., Stewart C. Myers, and Franklin Allen, Principles of Corporate Finance, Tenth Edition (New York, NY: McGraw Hill/Irwin, 2011), at 833 ("Venture capital partnerships look for high-tech startups or adolescent companies that need capital to grow.").

[26] Metrick and Yasuda (2021), at 1.

to as portfolio companies of the fund) on behalf of limited partners ("LPs"), who provide capital to invest and are typically comprised of large institutional investors.[27]

29. By their nature, VC funds specialize in investing in portfolio companies at an early stage, with the objective of realizing returns on investment for their LPs in the future when the companies reach a later stage of development. A VC fund typically realizes returns from its investments in the form of cash or stock if its portfolio companies achieve a successful liquidity event or "exit." Common forms of exit that allow a VC fund to realize returns include sale of a portfolio company to another company, completion of an initial public offering ("IPO")[28] by the company, or a "secondary sale" of the VC fund's equity in the company to another buyer (e.g., another private equity investor).[29]

30. VC funds often provide sequential "rounds" of funding to portfolio companies.[30] The initial round of funding often takes place when the company is at an early stage.[31] Rather than giving a portfolio company the total amount of funds that are likely to be needed prior to exit, the "entire VC model is predicated on funding that matches the achievement of milestones."[32] This allows the VC fund to assess the portfolio company's progress before deciding to provide the next round of funding or to condition the next round of funding on evidence the company actually has proceeded to the next development stage, such as the achievement of a milestone.

31. Companies developing drugs in the biotechnology sector ("biotech") often progress through stages including a pre-clinical stage, a clinical development stage and,

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27 Gornall and Strebulaev (2023), at 5.

28 Metrick and Yasuda (2021), at G-11 ("Initial public offering (IPO): A company's first sale of securities in public markets. Historically, IPOs have been the most lucrative exits for VCs.").

29 Gornall and Strebulaev (2023), at 10. *See also* Metrick and Yasuda (2021), at 2-3 ("Because VCs are financial intermediaries, they need some mechanism to give money back to their investors. Thus, a savvy VC will only make an investment if he can foresee a path to exit, with proceeds of this exit returning to the VC and his investors.").

30 *See, e.g.*, Gompers, Paul A, "Optimal Investment, Monitoring, and the Staging of Venture Capital," *The Journal of Finance*, December 1995, Vol. 50, no. 5, 1461 – 1489, at 1465 ("[V]enture capitalists use staged investment to periodically evaluate a firm's progress.").

31 Gornall and Strebulaev (2023), at 9 ("A company's Series A round is generally its first VC financing (sometimes the first round is also called Series Seed).").

32 Lerner, Josh and Ann Leamon, Venture Capital, Private Equity and the Financing of Entrepreneurship, Second Edition (Hoboken, NJ: John Wiley & Sons, Inc., 2023) ("Lerner and Leamon (2023)"), at 98-99.

once the drug obtains regulatory approval, a revenue stage.[33] The pre-clinical stage often concludes with the Investigational New Drug ("IND") submission to the FDA.[34] The clinical development stage includes multiple stages to clinically evaluate the safety and efficacy of the drug.[35] Biotech exits include merger with another company, acquisition by another company, shut down, or IPO.[36]

B. COMPENSATION IN VENTURE CAPITAL INDUSTRY

32. VC compensation generally includes a management fee and carried interest, or "carry." I describe both below.

33. The management fee covers the expenses of VC investing. Expenses, which include salaries, business development activities, expenses associated with due diligence, travel, and office rents, start at the beginning of a fund's life. After covering expenses, any residual amount from the management fee serves as profit to the venture capital firm. One of the common arrangements is for the LPs to pay a set percentage (e.g., 2.0 – 2.5 percent on an annualized basis) of committed capital as management fee.[37] It is common for this percentage to be reduced and/or changed to a percentage of invested capital (rather than committed capital) after the fund completes its initial investments or after the initially-planned investment horizon.

34. The second typical source of VC compensation, carried interest, or carry, is designed to enable the GP to participate in the profits of the fund, and thus align the incentives of the GP with the LPs (i.e., to incentivize the GP to identify investment

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33 *See, e.g.*, Shimasaki, Craig, Biotechnology Entrepreneurship, Second Edition (London, UK: Elsevier, 2020), ("Shimasaki (2020)"), at 438-440.

34 Investigational New Drug (IND) Application, *FDA*, *available at* https://www.fda.gov/drugs/types-applications/investigational-new-drug-ind-application.

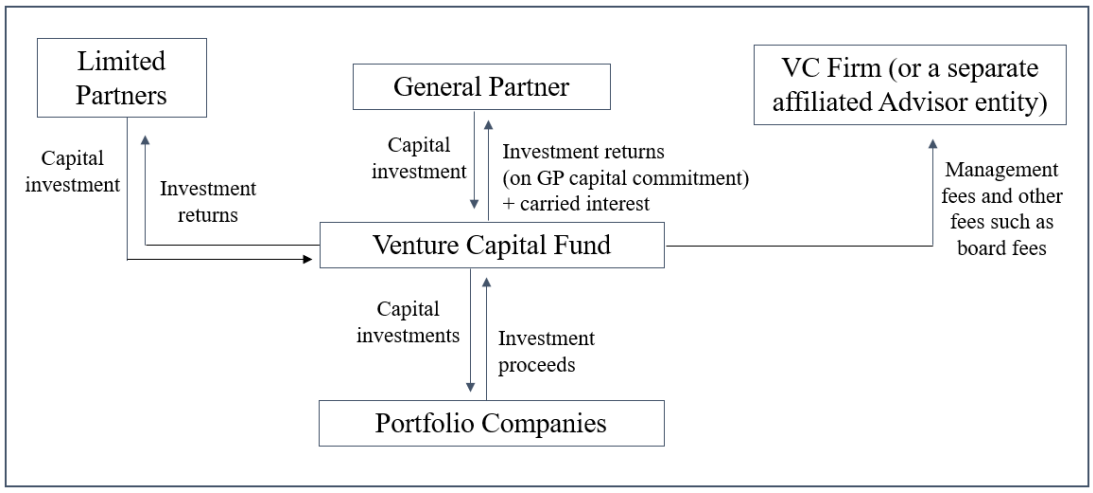
35 Shimasaki (2020), at 438-440.

36 Shimasaki (2020), at 262 ("The most likely exit options for a biotech company are an acquisition by a larger corporation that is either private or public, or through a public offering (IPO), or a merger with another company (including reverse merger).").

37 Lerner and Leamon (2023), at 47 ("Management fees are set when the firm starts raising its fund and are rarely if ever renegotiated. The classic figure is 2 percent, usually based on capital committed to the fund. It can, however, be calculated based on capital invested or on AUM. Each of these can create undesired behavior on the part of the GP: basing a fee on committed capital rewards firms that raise larger funds; basing it on invested capital can inspire suboptimal investments; and basing it on AUM raises issues of valuation. Moreover, the percentage itself can vary: some established firms charge 2.5 percent; some very niche organizations might charge more; and many large buyout firms charge less. First-time funds may charge a lower percentage just to raise money.").

opportunities with attractive returns and manage these investments to achieve profitable exits). The GP typically receives a pro rata return on any capital it invests in the fund alongside the LPs (known as GP commitment). However, the carry — if there is any — represents additional incremental compensation only received by the GP. It typically allows the GP to receive a portion of the realized profit, which is the amount of proceeds upon exiting the investments that the VC fund makes in excess of the committed capital or contributed capital ("contributed capital" is that part of the committed capital that LPs have already provided to the fund). In my research and experience, if a VC fund turns out to be successful, the carry will typically provide the largest portion of the compensation received by the partners of the VC firm. However, some VC funds might not have enough success to receive substantial (or any) carry, and for such a fund, the management fee is the main source of compensation to the members of the VC firm.[38] **Figure 1**, below, shows a stylized diagram of the structure of a typical U.S. VC fund and its compensation flows.

Figure 1: General VC Fund Structure



35. I understand from counsel that the ATP Fund's structure differs from a typical VC fund in that ATP does not receive carried interest. Rather, carry is received

[38] In a simulated model of revenue to VC firms, researchers found that for every $100 of committed capital, the average VC firm received $14.80 in management fees and $8.36 in carry over a 10-year fund life. *See* Metrick, Andrew and Ayako Yasuda, "The Economics of Private Equity Funds," *Oxford Journals*, 2010, at 2328.

directly by Dr. Harrison and his Les Pommes Trust (in addition to the investment returns they receive as LPs) and by certain other current and former employees of the Fund's wholly-owned management company, Apple Tree Life Sciences, Inc. Under this structure, carry provides economic incentives to Dr. Harrison and other individuals who are or were involved in managing the Fund's investments similar to the GP's carry incentives in a typical VC fund.

C. VENTURE CAPITAL INVESTMENTS ARE SPECULATIVE IN NATURE WITH HIGH FAILURE RATES

36. Venture capital investments in start-up companies, which are often pre-revenue, are distinct from investments made in mature, cash-flow-generating companies. Perhaps most importantly, these companies' investment needs are front-loaded whereas their cash flows are typically far in the future and uncertain, with potential success coming—if ever—from a new product or service that has not yet been fully created or sold.[39] Thus, the value of innovative startups does not come from their short-term profitability, but instead lies in the expectation of cash flows in the sometimes distant future. Consequently, investors generate returns by selling portions of their stake in the company rather than by getting access to the company's current assets or cash flows.[40] The venture capital financing model is therefore built around portfolio company liquidity events, such as going public through an IPO or being sold in an acquisition.[41] Additional liquidity for the VC investor can also be achieved though equity sales before the company's liquidity event. But failure followed by winding down or write off is a common outcome because high-growth innovation is inherently risky and uncertain, and such failures can occur at each stage of development.[42]

37. Investments in start-ups are highly uncertain. A large fraction of venture capital-backed companies ultimately fail with little or no return to their investors, while just a small number are successes. These successful outliers effectively determine the returns of the venture capital fund.[43] As such, venture capital investors face extreme

39 Gornall and Strebulaev (2023), at 5.
40 Gornall and Strebulaev (2023), at 12.
41 Gornall and Strebulaev (2023), at 10.
42 Gornall and Strebulaev (2023), at 11.
43 Gornall and Strebulaev (2023), at 11.

uncertainty in outcomes and recognize the high failure risk inherent in each individual venture capital investment.[44]

38. Several recent studies evaluate the frequency of outcomes for venture capital-backed companies, which are generally categorized into (i) exit via IPO; (ii) exit via M&A; (iii) failure; and (iv) still private (i.e., no outcome as of the time of the study).[45] While an IPO is generally considered a successful exit outcome from the perspective of venture capital investors[46] (and a failure an unsuccessful outcome), the interpretation of M&A outcomes is more challenging. A large fraction of sales of venture capital-backed companies are essentially disguised failures and would have been classified as failures if better data were available.[47]

39. Specifically, when I, along with Paul Gompers, Will Gornall, and Steven N. Kaplan, (2020) surveyed 1,110 venture capital firm respondents between November 2015 and March 2016, they reported that 15% of their exits are through IPOs, 53% through M&A, and 32% are failures.[48] Wang, et al. (2022) evaluated nearly 11,000 U.S.-based startups that received first-round venture capital funding between 1982 and 2014 from the Crunchbase database and found that only 2.9% of firms experienced an IPO exit and 15.5% experienced an M&A exit, whereas 81.6% of companies failed or had not

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44 Gornall and Strebulaev (2023), at 11.

45 The variation in study findings reflects both the multitude of venture capital data sources and the challenges of their interpretation.

46 In IPOs, VC investors' equity is typically locked up for up to 6 months and therefore a successful IPO by itself is not yet a guarantee of success. In a number of instances, companies that underwent an IPO experienced substantial stock price declines soon after the IPO.

47 Gornall and Strebulaev (2023), at 10–11 ("[A] large fraction of sales of VC-backed companies are essentially disguised failures.").

48 Gompers et al. (2020), at 172–173, 185–187. The authors report that, "[i]t is possible, however, that some M&A events are disguised failures in the VC industry and so statistics on M&A may not be a valid measure of success" and that "[s]everal VCs explicitly said that many of their M&A are disguised failures, supporting the difficulty of interpreting the M&A results from available data sets on VC outcomes." Additionally, according to the venture capitalists, the most important factors of failure for VC-backed companies were, regardless of stages, (i) management team, (ii) business model, (iii) technology, (iv) market, (v) industry, (vi) timing and (vii) luck: "The second panel of Table 14 presents the analogous results for failure. They are qualitatively similar to those for success. Overall, the team is the most important factor for failure, particularly for early-stage and IT VCs. The team and business-related factors are of roughly equal importance for later-stage and healthcare investors. Timing and luck play a role in failures, although less of a role than in successes."

reached an exit opportunity.[49] Ewens and Marx (2018) evaluated 11,929 venture capital-backed firms founded between 1995 and 2008 using VentureSource and found that 6% of firms exited via an IPO, 41% were acquired through M&A, 28% failed, and 24% were still private.[50] Notably, Ewens and Marx (2018) found that the likelihood of failure following each financing round was relatively stable, with 12.7% of firms failing after the first financing round and declining to 9.7% of remaining firms failing after the fifth financing round (the last round for which the authors provide round-specific data).[51] Similarly, Metrick and Yasuda, authors of a graduate-level textbook on venture capital and entrepreneurial finance, report that by five years after initial funding, more than 22% of companies are defunct and by 10 years, approximately 27% are defunct.[52] While the definition of failure can vary from complete shutdown to inability to secure additional financing, many studies find that a large number of VC-backed companies fail.[53]

40. Even companies that achieve a level of success to warrant a reported post money valuation of $1 billion or above (these companies are known as "unicorns" in the parlance of Silicon Valley), are susceptible to stagnation and failure. In my research, I have found that even late-stage VC-backed companies have relatively high rates of failure.[54]

41. One would expect these failures to also be prevalent in VC-backed biotech start-ups, given the uncertainty of outcomes of clinical trials and high failure rates of drug

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49 Wang, Dan, Emily Cox Pahnke, and Rory M. McDonald, "The Past Is Prologue? Venture-Capital Syndicates' Collaborative Experience and Start-Up Exits," *Academy of Management Journal*, Vol. 65, No. 2, April 2022, 371–402 ("Wang et al. (2022)"), at 373, 377–378.

50 Ewens, Michael and Matt Marx, "Founder Replacement and Startup Performance," *The Review of Financial Studies*, Vol. 31, No. 4, 2018, 1532–1565 ("Ewens and Marx (2018)"), at 1536–1537, 1539.

51 Ewens and Marx (2018), at 1542.

52 Metrick and Yasuda (2021), at 108 ("[B]y five years after the initial investment, 6.5 percent of all companies have had an IPO, 23.5 percent have been acquired, 22.8 percent are defunct (out of business), and 47.2 percent are still private. By 10 years after the initial investment, the respective percentages are 10.0 percent for IPO, 40.5 percent for an acquisition, 26.6 percent for defunct, and 22.9 percent for still private.").

53 *See also* Wang et al. (2022), at 373, 377–378; Ewens and Marx (2018), at 1536–1537, 1539; Puri, Manju and Rebecca Zarutskie, "On the Life Cycle Dynamics of Venture-Capital- and Non-Venture-Capital-Financed Firms," *The Journal of Finance*, Vol. 67, No. 6, December 2012, 2247–2293, at 2249, 2252–2255.

54 Gompers et al. (2020), at 185 ("It is also possible that VCs monitor their investment closely, because even late-stage VC companies have a relatively high rate of failure.").

discovery/development. One study indicates that "nine out of ten drug candidates after they have entered clinical studies would fail during phase I, II, II clinical trials and drug approval."[55] Another study indicates that biotech companies face similar challenges as other startups: "[S]tartups face similar challenges in funding rounds, technology protection, data interoperability, and long gestation time for approval, especially in med-tech and biotherapeutic solutions."[56]

42. Evidence indicates the environment has become more difficult for biotech in recent years. Recent data from EY indicates that there were only 30 biotech IPOs in Europe and the U.S. in 2024, which "[is] well below the 10-year average of 54 annually from 2010 to 2020."[57] The EY report also notes that in the first quarter of 2025 only six companies were able to raise funding through an IPO, "[a]s investors have become more cautious about where they put their money, we are seeing a move back toward greater emphasis on scientific milestones."[58] The EY report also states that investors are shifting towards companies with "more mature pipelines [and] clear clinical milestones…."[59] As a result, biotech companies reported the worst year since 2016 for follow-on financings in 2024.[60] In the biotech VC industry, investors focused on fewer companies with larger bets and a larger slate of co-investors. EY notes that "[t]his trend parallels the levels of uncertainty in the broader economic environment, with investors seeking certainty in strong scientific rationale…."[61]

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55 Sun, Duxin, Wei Gao, Hongxiang Hu, and Simon Zhou, "Why 90% of clinical drug development fails and how to improve it?" *Acta Pharmaceutica Sinica B*, Vol. 12, Issue 7, July 2022, at 3050.

56 Chakraborty, Imon, Sisira Edirippulige, and P. Vigneswara Ilavarasan, "What is coming next in health technology startups? Some insights and practice guidelines," *Digital Health*, May 10, 2023, at 4.

57 "Focus on fundamentals to bounce back: EY Biotech Beyond Borders Report 2025," *EY Insights*, 2025, ("EY Insights 2025"), at 6.

58 EY Insights 2025, at 7.

59 EY Insights 2025, at 7.

60 EY Insights 2025, at 7.

61 EY Insights 2025, at 8.

D. THE INTERESTS OF GPS AND LPS CAN DIVERGE IN RELATION TO PROVIDING ADDITIONAL ROUNDS OF FUNDING TO PORTFOLIO COMPANIES

43. The interests of GPs and LPs can diverge with respect to providing additional rounds of funding[62] to portfolio companies after the initial investment is made. As described above, the GP is generally responsible for little to none of the additional capital that is invested in a portfolio company, therefore it will bear little to none of the losses if the portfolio company fails.

44. However, the GP typically receives carry if the firm succeeds through a profitable exit that triggers the carry: if the portfolio company fails, the GP does not lose money (or loses only its small share of the invested capital), but if the portfolio company is sold for more than the invested capital, the GP shares disproportionately in the profits through its carry interest.[63]

45. Therefore, the GP typically has a financial incentive to approve additional funding for portfolio companies that have a chance of a large payoff, even if that chance is small. For example, as illustrated in Figure 2, an investment that requires $200 of capital investment and offers a 1% probability of $10,000 of profit (after returning the $200 capital investment), has a positive net present value ("NPV") for the GP. The GP does not contribute any of the $200 but will receive 20% of the profits (i.e. $2,000) if the investment succeeds. If the investment fails, the GP will not incur financial losses on the investment. In contrast, the same project would likely have a negative NPV for an LP because its expected cash flow with failure is -$198 ((100% – 1% probability of success) x $200 investment), but its expected cash flow with success is only $80. Therefore, a GP can have a financial incentive to approve an additional round of funding even if the effect

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62 As discussed in ¶ 30 above, venture capital funding typically occurs in rounds.

63 Lerner and Leamon (2023), at 41 ("[T]he GPs might pour 'good money after bad' to try to save a floundering but heavily financed company. This behavior could make sense from the perspective of the GPs, as they typically do not receive a share of profits until the LPs have been returned their original investment. Consequently, the GPs' share of profits can be thought of as a call option, the right but not the obligation to buy a financial asset at a set price in the future. In this case, the asset is the future value of the portfolio. If the investments collectively lose value, the GPs' carry will be worth nothing, but they will not be responsible for the losses. If the portfolio thrives, they will receive 20 percent of the capital gains.").

on the LPs is expected to be negative (because the expected cost of failure for the LPs is greater than the expected benefit of success).

Figure 2: Illustrative Example of NPV Differences between GP and LPs

	Assumptions about portfolio company:			
	Probability of success	[A]	1%	
	Profit realized	[B]	$10,000	
			GP	**LPs**
1	Capital invested into portfolio company	[C]	$0	$200
2	Outcome 1: Company succeeds			
	GP's carry / LP's share	[D]	20%	80%
	Share of profit realized (portfolio's profits)	[E]=[B]*[D]	$2,000	$8,000
3	Outcome 2: Company fails			
	Share of loss incurred	[F] = -[C]	$0	-$200
4	Expected NPV			
	Expected cash flow with success	[G]=[A]*[E]	$20	$80
	Expected cash flow with failure	[H]=(100%-[A])*[F]	$0	-$198
	NPV	[I]=[G]+[H]	**$20**	**-$118**

46. The GPs' incentives go beyond the financial consequences of any one investment. Consistently approving investments that have a negative expected effect on LPs can result in a low rate of return of a fund, which harms a GP's reputation and makes it difficult for the GP to raise money for future funds. However, GPs can also face a reputational cost to shutting down portfolio companies. For example, shutting down a portfolio company may force a fund to write down the value of an investment, and thereby reduce its rate of return. A lower rate of return on an existing fund may make it more difficult for the GP to raise money for future funds.[64]

47. As explained above (¶ 35) ATP differs from a typical GP because Dr. Harrison and other employees of the Fund's management subsidiary, rather than the GP itself, received the carry. However, this does not change or mitigate the conflict of interest described above. With respect to the pools that contain the Portfolio Companies,

[64] Batt, Rosemary and Eileen Appelbaum, "The Agency Costs of Private Equity: Why do Limited Partners Still Invest?" *Academy of Management Perspectives*, 2021, Vol. 35, No. 1, 45-68, at 49 ("A reputation for good performance is a boon to subsequent fundraising; poor performers will have difficulty raising capital for follow-on funds.").

Dr. Harrison and Les Pommes Trust have a combined carry interest of 11.2148% with respect to the profits from Pool V-3[65] and a combined carry interest of 7.5% with respect to the profits of Pools V-1 and V-2.[66] Therefore, the conflict of interest described above is also present in the ATP Fund because Dr. Harrison and others involved in managing the fund receive a substantial portion of the profits when portfolio companies succeed (up to 11.2148% for Dr. Harrison and Les Pommes Trust), while Rigmora bears nearly all of the loss if it contributes additional capital to portfolio companies that fail. Dr. Harrison and Les Pommes do not contribute any capital to Pools V-1 and V-2, and contribute only 0.3972% of the capital to Pool V-3.[67] The conflict of interest is not reduced because Dr. Harrison and Fund employees receive carry directly rather than through the GP (as in a typical VC firm).

48. One way this conflict of interest can be mitigated is to require portfolio companies to meet specific milestones to progress to the next round of funding. When the contract provisions require milestone financing, the portfolio companies will only receive additional financing after certain milestones are met.[68] Examples of milestones can include "developing a product prototype, commercialization of a product, shipping product, developing strategic partners or partnerships, and development of intellectual

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65 ATP Pool IV Hypothetical Waterfall v2.xlsx (ATP_00299846), "Unit Calculations" tab, cells G57 and G63, which show Dr. Harrison's and Les Pommes' carry interest for Pool V-3, which sum to 11.2148%.

66 V-1 and V-2 Waterfall.xlsx (ATP_00341392), "ATP V-1 Allocation" tab, cells D12 and D13, which show Dr. Harrison's and Les Pommes' carry interest in Pool V-1, which sum to 7.5%. The "ATP V-2 Allocation" tab, cells D12 and D13, show Dr. Harrison's and Les Pommes' carry interest in Pool V-2, which sums to 7.5%.

67 Annex A - Amendment 20 Schedules vFinal.xlsx (ATP_00116522), "Control Panel" tab, which shows Dr. Harrison's and Les Pommes' contributions to Pools V-1, V-2, and V-3.

68 Cuny, Charles and Eli Talmor, "The Staging of Venture Capital Financing: Milestone vs. Rounds," April 2005, at 24, *available at* https://papers.ssrn.com/sol3/papers.cfm?abstract_id=487414 ("The two commonly used methods of implementing staged financing for start-up firms are milestone financing, in which the firm receives a commitment for additional injections of financing after certain criteria (milestones) have been reached; and round financing, in which the firm has no explicit commitment, but goes to the venture capital market for additional financing (where it presumably can receive financing if it shows sufficient progress.)"); Dahiya, Sandeep and Korok Ray, "Staged investments in entrepreneurial financing," *Journal of Corporate Finance*, 18 (2012), pp. 1193-1216 at 1210 ("Staged financing is a fundamental feature of the venture capital market. VCs do not fund new ventures all at once, but instead deliver the investments in stages, forcing the project to clear a sequence of milestones in order to guarantee future funding.")

property."[69] Requiring milestones to be met makes it more likely the GP does not approve additional funding that has a negative NPV for LPs.

49. Consistent with industry practice, I understand from counsel that ATP prepared investment memoranda specifying funding tranches tied to milestones. For example, the investment memorandum for Aethon, which is one of the Early Stage Companies, describes five tranches along with the anticipated timeframes of milestones and the funding associated with each tranche as shown below:[70]

[69] *See, e.g.,* DCF Group, Valuation Analysis of Holdings in Apertor Pharmaceuticals, Inc., December 31, 2024, (ATP_00002112), at -120.

[70] Aethon Investment Memorandum, November 2022, (RIGMORA00000529), at -548.

9. Milestones for Tranched Seed/Series A

ATP total: $25M
NYU total: $1.5M
Open Investment: $3.5M (targets: LifeSci NYC Expansion Fund, Alexandria Real Estate, etc)

Tranche 1 (Dec 2022) = $6M (ATP contribution is $5m)

- At company formation.
    - Will support the following milestones: discovery and development of a broad range of antibody sequences to covalent peptide conjugate for Ras G12C (Amgen and Mirati), EGFR, BTK
    - Recruitment of Head of Technology, Head of Proteomics (Immuno-peptidomics) and Immunologist with head count of up to 7FTEs. [CEO/CSO candidates will be identified and within the first tranche we also have provision to fund first month's salary]
    - *In vivo* proof-of-concept
    - Establishing immuno-peptidomics
    - Establish Aethon in Long Island City and have access to NY city/state incentives for being in Queens and not Manhattan, such as [HYPERLINK "https://www.nyc.gov/site/finance/benefits/business-reap.page"] ($3,000 tax credit per employee), [HYPERLINK "https://www.nyc.gov/nycbusiness/description/energy-cost-savings-program"] (45% reduction on energy bills) and potentially the LifeSci NYC Expansion Fund (equity investment up to $1.2M to support rent and other relocation costs). The NYC Economic Development Corporation will conduct a specific analysis on our development plan, and connect us to relevant NY state plans we may also qualify for.

Tranche 2 (Q3 2023) = $5M (ATP contribution is $4.17m)

- Identifying lead antibody format for candidate nomination/ complete CSO and CEO appointments

Tranche 3 (Q3 2024) = $6M (ATP contribution is $5m)

- Candidate nomination and CMC scale up

Tranche 4 (Q2 2025) = $6M (ATP contribution is $5m)

- Pre-IND package for lead candidate with dose range finding toxicity and 1-2 further drug candidates.

Tranche 5 (Q1 2026) = $7M (ATP contribution is $5.83m)

- IND for lead program and have to raise additional $14-15M for clinical studies.

50. Separately, giving the LP the ability to veto budgets for portfolio companies helps resolve the conflicts between the GP and the LPs. For example, giving the LP this ability can allow it to prevent the GP from giving financing to portfolio companies when doing so is a negative NPV investment for the LP (even if doing so is positive NPV for the GP). However, while it is common to fund portfolio companies based on milestones, it is not common for an LP to have the right to condition capital calls on budget approvals. This is in part because, unlike the ATP Fund, in most venture capital funds a single investor does not provide nearly all of the Fund's capital. Indeed, in most

venture capital funds, LPs have little control over how the GP invests the fund's capital.[71] Here, however, Rigmora contributes the vast majority of the capital to the Fund's only active investment pools. In situations where one limited partner contributes effectively all of a fund's investment capital, it is not surprising for that investor to have more control over the fund's investment decisions, through mechanisms such as budget approval rights and more detailed reporting requirements.[72]

IV. Rigmora Consistently Provided Substantial Capital and Was Critical to the Fund's Successes

51. This section demonstrates that Rigmora consistently provided substantial capital to the Fund through the end of May 2025 that was critical to the Fund's success. Rigmora reliably provided capital when it was called, even when Rigmora disputed the request, and contributed nearly all of the capital invested by the Fund.

52. Plaintiff acknowledges that "the first ten-plus years of the relationship between ATP and [Rigmora] … worked without fail: ATP would present investment memoranda to [Rigmora], followed by proposed budgets for approval; [Rigmora] would approve them, sometimes without comment or question, and sometimes after reasonable, commercially-focused inquiry or comment; ATP would call for capital from time to time against the approved budgets; and [Rigmora] would meet its obligations when capital was called."[73]

53. As Dr. Harrison states in his Third Affidavit in the Cayman Islands Proceedings, he does "not deny that Dr Rybolovlev and [himself] have enjoyed more than decade of working together to achieve extraordinary success and medical advances, and [he is] extremely grateful for the extent of his prior capital backing…."[74] He further notes

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71 Metrick and Yasuda (2021), at 32.

72 This also has implications for a fund's costs, as it reduces the GP's fundraising costs and thus would typically be expected to result in lower management fees and/or lower carry.

73 Complaint, ¶ 2.

74 In the Grand Court of the Cayman Islands, Financial Services Division, Cause No: FSD 146 of 2025 (JAJ) Between Icorn Biotech Ventures One LTD (in its capacity as general partner of Rigmora Biotech Investor One LP), Icorn Biotech Ventures Two LTD (in its capacity as general partner of Rigmora Biotech Investor Two LP) and ATP III GP, LTD (in its capacity as general partner of ATP Life Science Ventures, L.P.) ("Cayman Islands Proceedings"), Third Affidavit of Dr. Seth L Harrison, July 22, 2025, ¶ 41.

examples of the Fund's successes: Stoke Therapeutics and Akero Therapeutics that made initial public offerings in 2019; sale of Chinook Therapeutics; sale of a position in Syntimmune, Inc; sale of the Fund's stake in Corvidia in 2020; and Braeburn.[75]

54. The relationship between ATP and Rigmora dates back to 2012, when the LPA was signed.[76] Since then Rigmora has contributed nearly all of the capital to the Fund.[77] Throughout the relationship, as Plaintiff notes, Rigmora consistently met its capital calls, including those that it disputed starting in late 2024, but funded anyway.[78] For example, Plaintiff acknowledges that Rigmora "ultimately funded the capital calls for Apertor and Initial issued on May 5, 2025…."[79]

55. Indeed, to date Rigmora has contributed close to $2.7 billion in funding to the ATP Fund. I understand from counsel that there is a dispute about whether the deemed capital contributions under Amendment No. 20 to the LPA should be considered as capital contributions against Rigmora's subscription agreements. The primary data I relied upon to calculate the total contributions by Rigmora (an excel file produced by ATP with tabs reporting Rigmora's contributions and distributions with respect to each ATP Pool through December 20, 2024) identifies the capital contributions including those deemed capital contributions.[80] I supplemented the capital contributions data reported in this spreadsheet past December 20, 2024 by summing the capital calls produced by ATP through May 6, 2025.[81] If I remove Amendment No. 20 deemed contributions, the total

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75 Cayman Islands Proceedings, Third Affidavit of Dr. Seth L Harrison, July 22, 2025, ¶ 45. That is not to say that there were not also failures during this early period. Several of the companies founded by the Fund failed. *See, e.g.,* ATP Life Science Ventures, LP, First Quarter 2025 Report As of March 31, 2025 (ATP_00004667). at -70, which shows that several investments were written off, including Kynos, Intergalactic and Galavant, among others.

76 LPA.

77 *See, e.g.*, Email from Daniel Finkelman to JP Morgan, April 10, 2024 (ATP_00244733), at -735 showing that Dr. Harrison and Les Pommes have capital interest of 1.6% in Pool IV, 0% in Pools V-1, V-2, and Braeburn, and 1.08% in Pool V-3.

78 Complaint, ¶¶ 2 and 103.

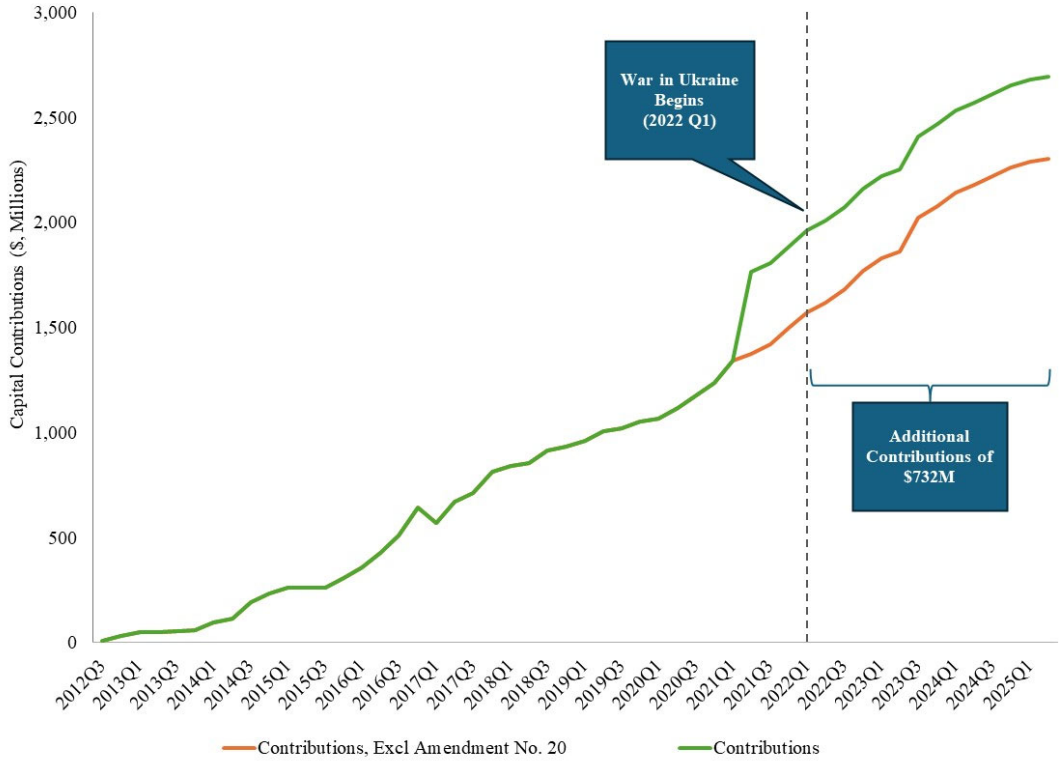
79 Complaint, ¶ 147 and Email from William Engels to Seth L. Harrison and Anna Batarina, May 22, 2025 (ATP_00089183). Note that capital calls for Initial and Apertor were dated May 6, 2025. *See* (ATP_00119271) and (ATP_00119275).

80 *See* ITD Capital 12.31.24.xlsx (ATP_00089527), for "Notes" field values of "Initial Contribution - Amendment 20" or "Initial Contribution (Amendment 20)" in tabs "Pool V-3 Ezbon"; "Pool V-3 Blue Horizon"; "Pool Braeburn Total".

81 *See* (ATP_00022284; ATP_00005073; ATP_00005069; ATP_00119685; ATP_00119678; ATP_00119688; ATP_00119681; ATP_00022241; ATP_00119822; ATP_00005059; ATP_00022208; ATP_00004656; ATP_00022139; ATP_00119271; ATP_00119275).

capital contributed by Rigmora through the end of May 2025 (including in response to the May 6, 2025 capital calls) amounts to more than $2.3 billion. **Exhibit 1** reports all capital contributions as a green line and contributions excluding those related to Amendment No. 20 as an orange line.

Exhibit 1
Cumulative Capital Contributions by Rigmora to ATP Fund
Q3 2012 – Q2 2025



Sources: 2012-2024 from ITD Capital 12.31.24.xlsx (ATP_00089527); 2025Q1 from Capital Calls (ATP_00022284; ATP_00005073; ATP_00005069; ATP_00119685; ATP_00119678; ATP_00119688; ATP_00119681; ATP_00022241; ATP_00119822; ATP_00005059); 2025Q2 from Capital Calls (ATP_00022208; ATP_00004656; ATP_00022139; ATP_00119271; ATP_00119275).
Note: Only amounts for Rigmora Biotech Investor One LP + Rigmora Biotech Investor Two LP are included for the February 7, 2025 Capital Call for ATLS Expenses (ATP_00022241).

56. The exhibit also shows that Rigmora continued to provide capital to the ATP Fund after early 2022 at about the same pace as before that date. This contradicts Plaintiff's claims that Rigmora's "enthusiasm began to wane in late 2021, and disappeared entirely following Russia's invasion of Ukraine in early 2022" and that "[s]ince then, and particularly over the last 18 months, [Rigmora] … became desperate to avoid its capital

commitments…."[82] Plaintiff's claim is inconsistent with Rigmora's investment of more than $730 million into the Fund between the end of Q1 2022 and the end of May 2025 as the exhibit shows.

V. The Early Stage Companies Raised Issues That Would Make a Reasonable Investor Concerned About Continuing to Fund Them

57. On May 15, 2025, Rigmora wrote to ATP (referring to itself as the "SLP") that it saw:

> no way for a path to commercial success for [the] Early-Stage Companies, *inter alia*, because: they have failed to meet the milestones set out in the investment memoranda on which SLP's initial funding was premised, the remaining budgets are not sufficient to achieve them, there is no third party interest to invest in these Early-Stage Companies, and any further capital calls would not be in accordance with the milestones and business plans set out in the agreed budgets for the Early-Stage Companies (and the SLP have not consented to these budgets being changed). The [SLP's] position is therefore that further funding of those Early-Stage Companies will waste the ATP Fund's assets.[83]

58. As explained in its May 15, 2025 email to ATP, Rigmora believed that the Early Stage Companies had failed to meet milestones as set forth in their investment memoranda and there was no third-party interest to invest in them.[84] In addition, the performance of the pools containing the Early Stage Companies, and the Fund's recent investments in general, has been below its peers, and substantially below top performing comparable funds. The latter is particularly important because VC investors desire to invest in top performing funds. These issues, as I explain below, would make a reasonable investor concerned about continuing to fund the Early Stage Companies.

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82 Complaint, ¶ 3.

83 Complaint, ¶ 134 (emphasis omitted); Email from Yuri Bogdanov of Rigmora to Seth L. Harrison of Apple Tree Partners, May 15, 2025 (Exhibit 10 to the Verified Complaint) ("Complaint Exhibit 10").

84 Complaint, ¶ 134; Complaint Exhibit 10.

A. THE EARLY STAGE COMPANIES MISSED MILESTONES

59. As is typical for VC funds in general, the investment memoranda for the Early Stage Companies included a list of milestones and identified specific funding tranches associated with each milestone.[85]

60. I understand from counsel that another expert, Dr. Ilonna Rimm, addressed whether each of the Early Stage Companies missed or delayed their milestones and found that key milestones were missed by each company at the time of their most recent funding requests.

61. Plaintiff claims that projects can succeed even if they miss milestones:

> …executives at biotech venture funds, use knowledge and experience to adjudicate the results of ongoing experiments, as well as information from other related sources such as research projects in academia and in industry, to determine whether or not a project should continue … No successful project goes according to its original plan from beginning to end. A project may miss its milestones but then hit or exceed the schedule later in the process.[86]

However, as discussed in Section III.D, it is very common to require portfolio companies to meet specific milestones to progress to the next round of funding. Therefore, a reasonable investor would be concerned about the failure of portfolio companies to meet their predetermined milestones.

B. THE EARLY STAGE COMPANIES STRUGGLED TO RAISE FUNDING FROM THIRD PARTIES

62. When making investment decisions VC investors assess the probability of success and potential returns.[87] One important gauge of the viability of a VC-backed company is whether new investors are willing to provide funding or syndicate with existing investors.[88] It is a particularly good signal when a new investor leads a new round of fundraising and negotiates at arms-length the company's valuation and other

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85 See *supra* ¶ 30.

86 Complaint, ¶ 34.

87 Metrick and Yasuda (2021), at 124 ("Before making an investment. a VC must assess the probability of success and potential returns.").

88 Gornall and Strebulaev (2023), at 14 ("At a horizontal level, several investors often form a syndicate at each VC financing round.").

relevant investment terms.[89] By contrast, if the company and existing investor(s) are unable to interest new investors, this sends a strongly negative signal. If potential new investors had thought that the Early Stage Companies were viable investments, these companies would likely have been able to obtain funding from third parties. Based on my review of the evidence, this was not the case. In addition, the Early Stage Companies have struggled to secure business development deals with pharmaceutical companies that further made it less likely for them to be able to secure follow on financings.

63. I have reviewed documents suggesting that ATP tried to find third-party investors and partners in the Early Stage Companies and was unable to do so. ATP's document production includes emails regarding its business development attempts with regard to the Portfolio Companies that show outreach to many pharmaceutical companies, where the update to those attempts was mostly "awaiting feedback."[90] Review of these emails indicates an unwillingness to fund the Early Stage Companies from third-parties. For example, they mention that potential investors and partners were interested in Aethon, Apertor, and Evercrisp but ultimately concluded that it was "too early" to engage.[91] The emails also indicate a lack of interest in coronavirus products that Red Queen was pursuing. For example, an email from Sanofi stated:

> … I am a fan of the technology and appreciate its potential. The challenge we have had is finding a target that the company sees as commercially viable. As I explained in my email last September, with Sanofi signing a strategic deal for exclusive US over-the-counter rights to Tamiflu® in Flu Care, they are currently unwilling to consider another antiviral for flu.

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89 Gornall and Strebulaev (2023), at 16 ("Financing rounds commonly involve many investors investing together as part of a syndicate. Generally, one of these syndicate members is a lead investor and is responsible for setting terms and taking an ongoing active governance role.").

90 *See, e.g.*, ATP emails from June 13, 2024 listing updates on business development efforts by ATP (ATP_00023582), at -582-588.

91 ATP emails from June 13, 2024 listing updates on business development efforts by ATP (ATP_00023582). *See e.g.*, for Aethon ("Kyowa Kirin: interested in platform but too early to pursue partnership"); for Apertor ("Beigene: no strategic fit and too early for discussion (prefer DC nomination) … Kyowa Kirin: interested in platform but too early to pursue partnership … Servier: interested in platform but too early for further pursuit"); for Evercrisp ("Kyowa Kirin: interested in platform but too early to pursue partnership"). *Id.* at -583, -584, and -586

> They also aren't sure about the commercial potential of an antiviral for coronavirus, PIV3 or RSV.[92]

64. Other emails indicate that potential investors and partners were asking for more clinical data. For example, an email from a Fund employee states: "… I am sick of presenting concepts… they nod and say brilliant plan but show me some evidence that it works."[93] Another Fund employee's email echoed a similar idea about Aethon, stating, "the platform has not been de-risked enough for major strategics (e.g., Amgen, Genentech, Novartis), who have asked us for data from key experiments before further re-engaging."[94]

65. Consistent with the above, deposition testimony from ATP personnel confirms that ATP's efforts to find strategic partners or investors for the Early Stage Companies were not successful. For example, one of the Fund's employees, Paul Da Silva Jardine stated that the business development efforts for Red Queen were not successful and to his knowledge there were no investors currently interested in Red Queen.[95] Dr. Jardine also stated that he spoke with a potential investor, Taiho (a Japanese pharmaceutical company), about investing in Aethon, but they were not interested.[96]

66. Given the above, I consider it reasonable for Rigmora to have been concerned about the future prospects of the Early Stage Companies because ATP's attempts to obtain funding from third-party investors had been unsuccessful and the companies had struggled to attract partnership deals through the start of this litigation.

C. THE PERFORMANCE OF THE FUND'S RECENT INVESTMENTS HAS BEEN BELOW ITS PEERS

67. Plaintiff claims that "[a]s measured in early 1Q 2025 … the Fund achieved a TVPI of 2.7 and a one-to-one ratio of DPI … [and] [t]hese metrics significantly

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92 Emails between ATP and Red Queen, March 2024, (ATP_00071529), at -533. *See also*, internal ATP emails, April 2024, stating "…Sanofi is not interested in COVID." (ATP_00069061); Deposition of Paul Da Silva Jardine, August 4, 2025 ("Da Silva Jardine Deposition"), 191:11-19 ("… Have you ever been told that it would be difficult to attract funding for Red Queen because there was limited interest in additional COVID therapies?... Yeah, I – there was concern about whether people were still interested in the drug for SARS-CoV-2.").

93 Email from Paul Da Silva Jardine to Joseph Yanchik, May 30, 2025 (ATP_00279725).

94 Email from Raj Chopra to Seth Harrison, February 19, 2024 (ATP_00040854), at -855.

95 Da Silva Jardine Deposition, 201:12-202:21.

96 Da Silva Jardine Deposition, 253:1-253:21.

exceeded the median TVPI (1.15) and DPI (0.15) of other large biotech venture funds, as also measured in 1Q 2025."[97] However, "a TVPI of 2.7 and a one-to-one ratio of DPI" are driven by the Fund's older deals, which are held in Pool ATP IV and Pool Braeburn.[98] A comparison of standard venture capital fund performance metrics for the Fund's more recent investments (contained in Pools ATP V-1/V-2/V-3)[99] with peer biotechnology funds indicates that the Fund's more recent investments have lagged their peers on average and have been substantially below the comparable funds in the top quartile of performance.

68. To perform this analysis, I first gathered the Fund's reported net internal rate of return ("Net IRR") and total-value-to-paid-in ("TVPI") for Pools ATP V-1, V-2 and V-3 as of December 31, 2024.[100] Net IRR is a standard performance metric in venture capital that calculates the interest rate must be applied to the fund's cash inflows and outflows (net of fees and expenses paid to the fund) through the present, and the unrealized value of its portfolio companies, to result in zero net present value.[101] TVPI is another standard performance metric that measures the value of a fund's investments relative to the amount invested. TVPI is calculated by dividing the sum of the value of fund's remaining investments and the value of total funds distributed by the total amount of capital paid into the fund.[102] I compared the Fund's reported December 31, 2024 Net

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97 Complaint, ¶ 130.

98 *See* ATP Life Sciences Ventures, LP, First Quarter 2025 Report as of March 31, 2025 (ATP_00004667), at -668 (showing the TVPI and DPI for Pool ATP Braeburn was 7.93 and 1.62 respectively and the TVPI and DPI for Pool ATP IV is 1.54 and 1.28 respectively) & -670 (showing the initial investment in Braeburn by Pool ATP IV was in 2012) and Complaint, ¶ 38 ("… the Fund's portfolio companies are accounted for in different 'Pools,' including Pool Braeburn (which exclusively holds the assets of Braeburn Inc.), … Pool ATP IV (which hold ATP's residual interests in older deals that have had successful exits) …").

99 ATP Life Sciences Ventures, LP, First Quarter 2025 Report as of March 31, 2025 (ATP_00004667), at -670.

100 ATP Life Sciences Ventures, LP, Fourth Quarter 2024 Report as of December 31, 2024 (ATP_00004868), at -870. I focused on Pools ATP V-1, V-2 and V-3 because these pools contain the Fund's most recent investments, with vintages from 2019-2021, including all of the Early Stage Companies. *Id.* at -871.

101 *See, e.g.*, Lerner and Leamon (2023), at 287 ("[m]ost private equity investors also utilize vintage-year analysis in which IRR (the discount rate that sets the net present value (NPV) of the fund's cash flows equal to zero) of a specific private equity fund is compared to those of a set of similar funds raised in the same year."). *See also*, Talmor, Eli and Florin Vasvari, International Private Equity (West Sussex, UK: John Wiley & Sons, 2011), ("Talmor and Vasvari (2011)"), at 43.

102 *See, e.g.*, Talmor and Vasvari (2011), at 42.

IRR and TVPI metrics for Pools ATP V-1, V-2 and V-3 to reported net IRR and TVPI metrics as of December 31, 2024 for a sample of comparable biotechnology funds gathered from the Preqin and Pitchbook databases (the "Comparable Biotechnology Funds), as follows:[103] First, I identified North American venture capital funds that invested in the biotechnology industry, had committed capital greater than $200 million, and were created between 2019 and 2021 (vintage) in Preqin, and gathered their Net IRR's and TVPIs as of December 31, 2024. If Net IRRs and TVPIs for December 31, 2024 were not available in the Preqin database, I gathered the reported Net IRR and TVPI from the closest date prior to December 31, 2024.[104] I chose vintages from 2019 through 2021 to match the vintages of Pools ATP V-1 (2019), V-2 (2020) and V-3 (2021).[105] Next, for the funds that did not have reported Net IRRs or TVPI metrics for December 31, 2024 available in Preqin, I searched the Pitchbook database to determine if Pitchbook had Net IRR or TVPI metrics reported for December 31, 2024. For funds for which neither Preqin nor Pitchbook reported performance metrics as of December 31, 2024, I selected the database with the metrics reported on the closest date prior to December 31, 2024. In an effort to exclude stale data, funds were excluded if the most recently reported performance metrics were from before the first quarter of 2024.

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103 Preqin and Pitchbook are widely-used databases for venture capital fund returns. *See, e.g.*, Talmor and Vasvari (2011), at 8 ("Preqin, an independent data provider, offers one of the most comprehensive and detailed sources of private equity performance data covering both buyout and venture funds."). *See also,* the Stanford Graduate School of Business Library database guide, *available at* https://libguides.stanford.edu/pitchbook. ("PitchBook provides detailed data on over three million companies, investments, deals, funds, financials, and research and more. Its versatile screening capabilities enable users to create custom datasets and assess investment activity globally, from individual companies to entire industry sectors.)

104 The sample of Comparable Biotechnology Funds was generated using the fund performance module in Preqin and had the following characteristics: Asset Class – Private Equity, Fund Type & Status – Comingled, Strategy – Venture Capital, Fund Size – greater than or equal to $200 million, Vintage / Inception Year – 2019 to 2021, Sector – Biotechnology, Geography – North America, Fund Manager Location – North America, and Currency – USD..

105 ATP Life Sciences Ventures, LP, First Quarter 2025 Report as of March 31, 2025 (ATP_00004667), at -668. *See also Id*. at -670 (showing six of the companies in V-1, V-2 and V-3 had an initial investment date of 2020, four had an initial investment date of 2021, two had an initial investment date of 2022 and two had an initial investment date of 2015). The two companies with initial investments in 2015 have higher TVPIs than the average for these pool, Galvanize is reported to have $127.04 million invested to date and a fair value of $202.53 (with no realized gain/loss) for a TVPI of 1.59 (i.e. 202.53 / 127.04 = 1.59) and Marengo is reported to have $56.02 invested to date and a fair value of $201.56 for a TVPI of 3.60 (i.e. 201.56 / 56.02 = 3.60).

69. The results of this analysis are shown in **Appendix E**. **Appendix E** shows Net IRR that the Fund reported for Pools V-1, V-2, and V-3 for December 31, 2024 (7.18%)[106] was below the average and median Net IRR for the Comparable Biotechnology Funds (9.90% and 8.23%, respectively), and substantially below the top performing Comparable Biotechnology Funds (as shown by the 15.89% Net IRR for the 75th percentile of the sample, that is top 25% of the sample all had a Net IRR of 15.89% or more). **Appendix E** also shows the TVPI that the Fund reported for Pools V-1, V-2 and V-3 (1.16) was below the average and median TVPI for the Comparable Biotechnology Funds (1.27 and 1.26, respectively) and substantially below the top performing Comparable Biotechnology Funds (as shown by the 1.46 TVPI for the top 75th percentile of the sample, that is top 25% of the sample all had a TVPI of 1.46 or more). Thus **Appendix E** shows that the Fund's most recent investments have lagged its peer venture capital funds and substantially lagged peer funds in the top quartile of performance.[107]

VI. Rigmora's Conditioning of Discussion of Additional Budgets for the Remaining Companies At Issue on 1) ATP Providing Specific Information on the Remaining Companies At Issue and 2) ATP Winding Down the Early Stage Companies, Was Reasonable Investor Behavior Given the Issues Raised by These Companies

A. BACKGROUND

70. I understand it is not disputed that, as Plaintiff states in the Complaint, 1) "[t]he LPA reserves for [Rigmora] the right to 'review[] and approve[]' budgets for each of the Fund's investments in 'pharmaceutical, medical device and other medically related companies, projects and related activities (each a 'Project');'[108] and 2) a refusal by

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106 Note that the Net IRR reported by ATP for Pool V-2 of 0.00% is based on an erroneous excel formula in the Fund Model spreadsheet used to calculate the Net IRR and TVPI for the various pools 2024.12.31 Fund Model.xlsx (ATP_00264756). In particular, cell E394 of the "Net" tab contains an "XIRR" formula that includes the default "estimate" of 0.1, which in this instance does not allow for a valid IRR calculation. Correcting this default "estimate" to -0.1 yields a corrected Net IRR of -3.23% for Pool V-2.

107 I note that, according to ATP's Q1 2025 reporting, the Net IRR for Pools V-1, V-2, and V-3 combined declined from 7.18% in Q4 2024 to 2.53% in Q1 2025. *See,* ATP Life Sciences Ventures, LP, First Quarter 2025 Report as of March 31, 2025 (ATP_00004667 at -668).

108 Complaint, ¶ 45.

Rigmora to approve a budget for a portfolio company "prevent[s] [the GP] from issuing capital calls that [Rigmora] would be required to fund,"[109] assuming other requirements are satisfied.

71. On May 15, 2025, Dr. Harrison emailed Rigmora representatives asking Rigmora to approve budget requests for two of the Remaining Companies At Issue: Ascidian and Aulos.[110] He asserted that "[t]he GP was informed yesterday that Ascidian will miss its planned clinical development timeline…unless it provides binding commitments for the contract manufacture of clinical supplies before the end of the month," and requested that Rigmora approve a budget request of $45 million.[111] Dr. Harrison further asserted that "[t]he GP needs to commit immediately to a $22.5 million Series B round" for Aulos, "of which [the Fund] would invest $10 million," and without this funding, Aulos would "not be able to complete its clinical proof of concept trial in second-line melanoma…"[112] Dr. Harrison asserted that ATP had forwarded full materials relating to these budget requests on March 11, 2025, prior to presentations that Ascidian and Aulos management made to Rigmora on March 12, 2025.[113]

72. Yuri Bogdanov, Chief Executive Officer of Rigmora, responded to Dr. Harrison. Mr. Bogdanov explained that Rigmora would be willing to initiate discussion relating to budgets for the Remaining Companies At Issue if 1) it received certain information about the companies for which budget approval was requested and 2) the GP agreed to wind down and liquidate the Early Stage Companies.[114]

73. I first explain why Rigmora's conditioning of discussion of additional budgets for the Remaining Companies At Issue on ATP providing specific information on these companies was reasonable investor behavior. I then explain why Rigmora's conditioning of discussion of additional budgets for the Remaining Companies At Issue on

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109 Complaint, ¶ 3.
110 Complaint, ¶ 132; Email from Seth L. Harrison of Apple Tree Partners to Yuri Bogdanov of Rigmora, May 15, 2025 (Exhibit 9 to the Verified Complaint) ("Complaint Exhibit 9").
111 Complaint Exhibit 9.
112 Complaint Exhibit 9.
113 Complaint Exhibit 9.
114 Complaint Exhibit 9 & Complaint Exhibit 10.

ATP winding down the Early Stage Companies was reasonable investor behavior given the issues raised by these companies.[115]

B. THE INFORMATION RIGMORA REQUIRED PRIOR TO DISCUSSING BUDGETS WOULD BE IMPORTANT TO A REASONABLE INVESTOR

74. As I explain below, Rigmora was requesting information that would be important to a reasonable investor in evaluating whether to make an investment. As discussed in ¶ 70 *supra*, approving budgets could obligate Rigmora to fund capital calls, i.e. to make investments, subject to any limits on such obligation the LPA might contain.[116] Therefore, Rigmora's conditioning of discussion of additional budgets for the Remaining Companies At Issue on ATP providing the information Rigmora requested was reasonable investor behavior.

75. In his May 15, 2025 email to Dr. Harrison, Yuri Bogdanov stated that Rigmora was willing to "consider new budgets…for clinical stage businesses that are commercially viable and have a greater likelihood of providing meaningful returns…" for the Fund.[117] He further stated that any "new budgets must be based upon objective information" such as "new milestones, expected return on invested capital, business theses etc. – that [the GP] must provide…"[118]

76. Rigmora requested information that would be important to a reasonable investor. For example, Rigmora specifically requested for Aulos an "updated Series B Memorandum, incl. new milestones and times of funding the tranches".[119] The new milestones relate to what Aulos was trying to achieve. Knowing them is important so that an investor can evaluate the value and likelihood of achieving those goals.[120] Rigmora also requested information regarding Aulos' "progress against the strategic milestones

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115 Complaint Exhibit 10.
116 Complaint Exhibit 10.
117 Complaint Exhibit 10.
118 Complaint Exhibit 10.
119 Email from Yuri Bogdanov to Dr. Harrison, May 22, 2025 (RIGMORA00015362).
120 *See, e.g.,* Gladstone, David and Laura Gladstone, Venture Capital Handbook, Prentice Hall (2002), at 107 ("the venture capitalist is looking for general information about the milestones to be accomplished in the future. The VC will have particular questions about each stage of development that you intend to go through. The basic question will be, 'How will you be able to achieve the milestones you have set out in the business proposal?'")

defined in the original Investment Memorandum …"[121] Although, as an existing investor in the Fund, certain information had been provided to Rigmora regarding the company's prior progress, it is reasonable to seek additional information regarding a company's progress against past milestones as it could help the investor evaluate whether the company is likely to achieve milestones in the future. Finally, Rigmora requested a "[c]omprehensive company valuation analysis" for Aulos.[122] Such an analysis helps investors come to their own assessment of the value of the company so they can determine whether the value of the securities they will receive exceeds the cost of their investment.

77. Rigmora also asked for information relating to Ascidian. It made a similar request for Ascidian to the one it made for Aulos.[123] Rigmora also asked for a call with management of Ascidian to address an apparent inconsistency, regarding Ascidian's need for funding, between the current request for funding and a March 2025 Ascidian presentation.[124] Rigmora stated that an earlier presentation outlined "three potential development scenarios, two of which do not require additional capital in 2026 and one does not assume any clinical development" and stated it "need[ed] to understand what changed" so that Ascidian now needed more funding. Understanding how a company's situation has changed such that it needed additional funding is important for investors so that they can evaluate the return they can expect to earn on the additional funds (including whether the request indicates a deterioration in the company's performance which could be so severe that it is unlikely the investor will earn a positive return).[125]

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121 Email from Yuri Bogdanov to Dr. Harrison, May 22, 2025 (RIGMORA00015362).

122 Email from Yuri Bogdanov to Dr. Harrison, May 22, 2025 (RIGMORA00015362).

123 Email from Yuri Bogdanov to Dr. Harrison, May 22, 2025 (RIGMORA00015360); *see also* Complaint Exhibit 9.

124 Email from Yuri Bogdanov to Dr. Harrison, May 22, 2025 (RIGMORA00015360) and Complaint Exhibit 9.

125 Block, Zenas and Ian C. MacMillan, "Milestones for Successful Venture Planning," *Harvard Business Review,* September 1985, *available at* https://hbr.org/1985/09/milestones-for-successful-venture-planning ("Managers must justify moving to each new stage or milestone in the plan on the basis of information learned in the previous stage. Learning in an evolutionary way is valuable not only for venture managers but also for investors, senior corporate managers, and directors. It can help them make informed decisions about whether to fund each stage, as indications of the business's potential unfold.").

C. A Reasonable Investor Making a Decision on a Specific Investment Evaluates the Full Context in Which the Investment Will Be Made and Will Take All Relevant Information into Account, Even if It Goes Beyond the Individual Merit of the Specific Investment

78. In the Complaint ATP asked "that the Court issue an order of specific performance requiring [Rigmora] to … engage in the budget approval process under the terms of the LPA for the clinical-stage companies based on their individual merit…"[126] This is inconsistent with custom and practice because, as I explain below, investors do not look at investments in isolation, but rather in the context of, among other things, their portfolios and their resources. Given Rigmora's view that the Early Stage Companies are not viable, its conditioning of discussion of additional budgets for the Remaining Companies At Issue on ATP winding down the Early Stage Companies is an example of an investor taking the full context of their position into account. Therefore, it is an example of reasonable investor behavior.

79. The fact that investors make investment decisions in the full context of their position is not controversial. For example, because venture capitalists have limited capital, they have to decide how to allocate resources towards the investments with the highest profit potential. Therefore, a venture capitalist may reject investments that could appear potentially profitable in isolation because there are more profitable opportunities available. Providing Series B funding to a portfolio company is an example of an investment a venture capitalist may reject even after having provided Series A funding if there are more profitable opportunities available and the venture capitalist does not have sufficient funds to invest in all positive NPV projects.

80. The same concept applies to Rigmora. While Rigmora is an LP, its right to approve budgets puts it in a similar position to a venture capitalist, in that it makes investment decisions which affect the Fund. Therefore, it is not surprising that it would behave as one when making investment decisions. Assuming Rigmora believed that the net present value of any additional investment in the Early Stage Companies was negative, it would believe further investments in those companies would reduce the Fund's return.

[126] Complaint, ¶¶ 152 & 154.

By conditioning budget approval for the Remaining Companies At Issue on shutting down the Early Stage Companies, Rigmora could enhance the expected return of the Fund, by making investments it believes have negative NPV (i.e. additional rounds of funding to the Early Stage Companies) less likely to occur. This is consistent with how a reasonable investor would behave.[127]



Ilya A. Strebulaev
August 15, 2025

[127] The same logic implies that a reasonable investor would not fund a capital call it was not required to meet if it viewed funding the call to be a negative NPV investment.

Ilya A. Strebulaev

Curriculum Vitae

Graduate School of Business, Stanford University
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This version: August 2025

Education

2004	Ph.D., Finance, London Business School
2002	M.Phil., Finance, London Business School
1999	M.A., Economics, New Economic School, Moscow
1997	B.A., Economics, Lomonosov Moscow State University

Academic Appointments

2016–	The David S. Lobel Professor of Private Equity and Professor of Finance (tenured), Graduate School of Business, Stanford University
2010–	Research Associate, National Bureau of Economic Research
2014–2016	Professor of Finance (tenured), Graduate School of Business, Stanford University
2010–2014	Associate Professor of Finance (tenured), Graduate School of Business, Stanford University
2009–2010	Visiting Associate Professor of Finance, London Business School
2008–2010	Associate Professor of Finance, Graduate School of Business, Stanford University
2004–2008	Assistant Professor of Finance, Graduate School of Business, Stanford University

Non-Academic Appointments

2018–2022	Non-Executive Board Member, Board of Directors, Yandex N.V. (Nasdaq: YNDX) Chair of Audit Committee (2021–2022) Member of Audit Committee (2018–2022)

Publications

A. Refereed Publications

1. "The Value of Privacy and the Choice of Limited Partners by Venture Capitalists," *Journal of Financial Economics*, forthcoming (with Rustam Abuzov and Will Gornall)

2. "Gender, Race, and Entrepreneurship: A Randomized Field Experiment on Venture Capitalists and Angels," *Management Science*, forthcoming (with Will Gornall)

3. "A Unified Model of Distress Risk Puzzles," 2022, *Journal of Financial Economics* 146, 357–384 (with Zhiyao Chen and Dirk Hackbarth)

- Lead article

4. "Proactive Capital Structure Adjustments: Evidence from Corporate Filings," 2022, *Journal of Financial and Quantitative Analysis* 57, 31–66 (with Arthur Korteweg and Michael Schwert)

5. "Venture Capitalists and COVID-19," 2021, *Journal of Financial and Quantitative Analysis* 56, 2474–2499 (with Paul A. Gompers, Will Gornall, and Steven N. Kaplan)

6. "Beyond Random Assignment: Credible Inference and Extrapolation in Dynamic Economies," 2020, *Journal of Finance* 75, 825–866 (with Christopher Hennessy)

7. "Corporate Taxes and Capital Structure: A Long-Term Historical Perspective," 2020, *Critical Finance Review* 9, 1–28 (with Matthias Fleckenstein and Francis A. Longstaff)

   - Lead article

8. "Empirical Analysis of Corporate Tax Reforms: What Is the Null and Where Did It Come From?" 2020, *Journal of Financial Economics* 135, 555–576 (with Christopher Hennessy and Akitada Kasahara)

   - Lead article

9. "Squaring Venture Capital Valuations with Reality," 2020, *Journal of Financial Economics* 135, 120–143 (with Will Gornall)

   - Best Paper, Private Equity Research Consortium Best Paper Award
   - Highly commended paper, Best Private Equity paper 2017, Savvy Investor Awards

10. "How Do Venture Capitalists Make Decisions?" 2020, *Journal of Financial Economics* 135, 169–190 (with Paul A. Gompers, Will Gornall, and Steven N. Kaplan)

    - First Prize, Jensen Prize for Best Paper published in 2020 in the *Journal of Financial Economics* in the areas of Corporate Finance and Organizations
    - The Inaugural Doriot Award for the Best Private Equity Research Paper, 2021

11. "Strategic Risk Shifting and the Idiosyncratic Volatility Puzzle: An Empirical Investigation," *Management Science* 67, 2751–2772 (with Zhiyao Chen, Yuhang Xing and Xiaoyan Zhang)

12. "Macroeconomic Risk and Idiosyncratic Risk-Taking," 2019, *Review of Financial Studies* 32, 1148–1187 (with Zhiyao Chen)

13. "Financing as a Supply Chain: The Capital Structure of Banks and Borrowers," 2018, *Journal of Financial Economics* 129, 510–530 (with Will Gornall)

14. "Firm Size and Capital Structure," 2015, *Quarterly Journal of Finance* 5, 3, 1–46 (with Alexander Kurshev)

15. "Macroeconomic Effects of Corporate Default Crises: A Long-Term Perspective," 2014, *Journal of Financial Economics* 111, 297–310 (with Kay Giesecke, Francis A. Longstaff, and Stephen M. Schaefer)

16. "Investment, Reputation, and the Temptation to Blend in with the Crowd," 2014, *Journal of Financial Economics* 111, 137–157 (with Steven R. Grenadier and Andrey Malenko)

17. "Government Policy and Ownership of Financial Assets," 2014, *Journal of Financial Economics* 111, 70–85 (with Kristian Rydqvist and Joshua Spizman)

    - Finalist, 2014 TIAA-CREF Paul A. Samuelson Award
    - Short version reprinted in *Finance and Accounting Memos*, 2016, 3.

18. "Dynamic Corporate Finance is Useful: A Comment on Welch (2013)," 2013, *Critical Finance Review* 2, 173–191 (with Toni M. Whited)

19. "The Mystery of Zero-Leverage Firms," 2013, *Journal of Financial Economics* 109, 1–23 (with Baozhong Yang)

    - Lead article
    - Winner, the Emerald Citations of Excellence for 2016

20. "Dynamic Models and Structural Estimation in Corporate Finance," 2012, *Foundations and Trends in Finance* 6, 1–163 (with Toni M. Whited)

21. "Cash Holdings and Credit Risk," 2012, *Review of Financial Studies* 25, 3573–3609 (with Viral Acharya and Sergei Davydenko)

22. "A Market-Based Study of the Costs of Default," 2012, *Review of Financial Studies* 25, 2959–2999 (with Sergei Davydenko and Xiaofei Zhao)

23. "Corporate Bond Default Risk: A 150-Year Perspective," 2011, *Journal of Financial Economics* 102, 233–250 (with Kay Giesecke, Francis A. Longstaff, and Stephen M. Schaefer)

    - Lead article
    - First Place, Fama–DFA Prize for the best papers published in the areas of capital markets and asset pricing in the *Journal of Financial Economics* in 2011

24. "The Aggregate Dynamics of Capital Structure and Macroeconomic Risk," 2010b, *Review of Financial Studies* 23, 12, 4187–4241 (with Harjoat S. Bhamra and Lars-Alexander Kühn)

    - Lead article

25. "Temporary versus Permanent Shocks: Explaining Corporate Financial Policies," 2010, *Review of Financial Studies* 23, 7, 2591–2647 (with Alexander S. Gorbenko)

    - Lead article
    - The Best Paper Award, 13th Mitsui Symposium on Finance, U. of Michigan, 2007

26. "Long-Run Risks, Credit Markets, and Financial Structure," 2010, *American Economic Review, Papers & Proceedings* 100, 2, 547–551 (with Harjoat S. Bhamra and Lars-Alexander Kühn)

27. "The Levered Equity Risk Premium and Credit Spreads: A Unified Framework," 2010a, *Review of Financial Studies* 23, 2, 645–703 (with Harjoat S. Bhamra and Lars-Alexander Kühn)

28. "Repo Auctions and the Market for Liquidity," 2009, *Journal of Money, Credit and Banking* 41, 7, 1391–1421 (with Ulrich Bindseil and Kjell Nyborg)

29. "Structural Models of Credit Risk Are Useful: Evidence from Hedge Ratios on Corporate Bonds," 2008, *Journal of Financial Economics* 90, 1–19 (with Stephen M. Schaefer)

    - Lead article
    - Third Prize, Q Conference, 2004

30. "Strategic Actions, Capital Structure, and Credit Spreads: An Empirical Investigation," 2007, *Journal of Finance* 62, 6, 2633–2671 (with Sergei Davydenko)

    - Reprinted in *World Scientific Reference on Contingent Claims Analysis in Corporate Finance*, ed.: Michael Crouhy, Dan Galai, and Zvi Wiener, World Scientific, 2019, pp. 213–258.

31. "Do Tests of Capital Structure Theory Mean What They Say?," 2007, *Journal of Finance* 62, 4, 1747–1788

    - First Paper Prize, Brattle Award, Journal of Finance, 2007
    - Trefftzs Award, Western Finance Association, 2004
    - Dimitris Chorafas Award, 2004

32. "Multiple Unit Auctions and Short Squeezes," 2004, *Review of Financial Studies*, 17, 545–580 (with Kjell Nyborg)

33. "Collateral and Short Squeezing of Liquidity in Fixed Rate Tenders," 2001, *Journal of International Money and Finance*, 20, 769–792 (with Kjell Nyborg)

B. Books and Book Chapters

1. *The Venture Mindset: How to Make Smarter Bets and Achieve Extraordinary Growth*, 2024, Portfolio/Penguin Random House (with Alex Dang)

2. "The Contracting and Valuation of Venture Capital-Backed Companies," 2023, in Eckbo, Espen B., Gordon Phillips, and Morten Sorensen (Editors), *Private Equity and Entrepreneurial Finance, Handbook of the Economics of Corporate Finance*, Vol. 1, Ch. 1, pp. 3–76, Handbooks in Economics Series, Elsevier/North-Holland (with Will Gornall)

C. Working papers

1. "Interim Valuations, Predictability, and Outcomes in Private Equity," 2025 (with Ege Ercan abd Steven N. Kaplan)

2. "Alumni Networks in Venture Capital Financing," 2025 (with Jon A. Garfinkel, Erik J. Mayer, and Emmanuel Yimfor)

3. "Organization Structure and Decision-Making in Corporate Venture Capital," 2021 (with Amanda Y. Wang)

4. "The Economic Impact of Venture Capital: Evidence From Public Companies," 2021 (with Will Gornall)
5. "A Valuation Model of Venture Capital-Backed Companies with Multiple Financing Rounds," 2021 (with Will Gornall)
6. "Returns on Venture Capital Investments: Insiders vs. Outsiders," 2017 (with Michael Ewens and Matt Rhodes-Kropf)
7. "Optimal Issuance under Information Asymmetry and Accumulation of Cash Flows," 2016 (with Haoxiang Zhu and Pavel Zryumov)
8. "An (S, s) Model of Capital Structure: Theory and Evidence," 2014 (with Arthur Korteweg)
9. "Capital Structure and Systematic Risk," 2014 (with Michael Schwert)

D. Work in progress

1. "Human Capital in Venture Capital," (with Blake Jackson)
2. "Evolution of Corporate Governance in VC-Backed Companies," (with Will Gornall)
3. "The Economics of VC Funds," (with Will Gornall)

E. Teaching cases and notes

(many cases are co-authored with Stanford case writers, PhD/MBA/MSx students, or faculty)

1. "Evaluating Venture Capital Term Sheets (Parts A, B)," 2014, Revised 2017
2. "Sand Hill Angels: To Fund or Not To Fund?" 2013, Revised 2019
3. "Floodgate: Business Model of a Seed Fund," 2016
4. "SelfScore: Series A2 or SeriesB?" 2016
5. "Broadway Angels: Preparing for the Future," 2014
6. "Dropbox – Series B Financing", 2014
7. "Trulia: IPO or Sale?", 2014
8. "Angel Investing in India," 2013
9. "VC Decision-Making in India: Aavishkaar and Milk Mantra (Parts A, B, C)," 2013
10. "Venture Capital Deal Sourcing and Screening," 2013
11. "Note on Angel Financing," 2013
12. "SunRun: Raising Series A Round," 2013
13. "OpenLane: M&A or IPO?" 2013
14. "A Day in the Life of a Venture Capitalist," 2013
15. "Wikimart: Raising the Angel Round," 2013

F. Select other work

1. "Valuation of early-stage firms implied by SAFEs and convertible notes," 2025, Westlaw Today article (with Stefano Collina, Sylvain Delalay, and Manuel Vasconcelos)
2. "Make Decisions with a VC Mindset" 2024, *Harvard Business Review* May-June, (with Alex Dang)
3. "Steer Clear of Corporate Venture Capital pitfalls," *MIT Sloan Management Review*, Spring 2004, pp. 30-35 (with Amanda Wang)
4. "San Francisco Bay Area's venture capital-based economy is heading to court," San Francisco Chronicle op-ed, December 5, 2023.
5. "Venture Capital Valuation," 2023, In: Cumming, D., Hammer, B. (eds) *The Palgrave Encyclopedia of Private Equity*. Palgrave Macmillan, Cham.
6. "Why Private VC-Backed Cos. Need a New Valuation Method," 2022, Law360 article (with Manuel Vasconcelos)
7. "How Venture Capitalists Make Decisions" 2021, *Harvard Business Review* March – April, 70–78 (with Paul A. Gompers, Will Gornall, and Steven N. Kaplan)
8. "Check the fair value estimate of your shares and options for ANY U.S. public company," LinkedIn posting, March 12, 2020.
9. "Fair Value of Uber Estimated at $49 Billion," LinkedIn article, January 31, 2018.
10. Letter to the SEC Re: Proposed Rule on Good Faith Determinations of Fair Value (Release No. IC-33845; File No. S7-07-20 RIN 3235-AM71) (with Will Gornall).

Presentations

A. Presentations at conferences (including by co-authors)

2024	Private Markets Research Conference, Lausanne
	Private markets Symposium, Oxford University
2022	European Finance Association, Barcelona
2020	American Finance Association Meeting, San Diego
2019	European Finance Association, Portugal
	National Bureau of Economic Research, Summer conference, Boston
	London Business School Private Equity conference
	Private Equity Research Consortium, Rome
2018	Western Finance Association Meeting, San Diego
	American Finance Association Meeting, Philadelphia (2 papers)
	Financial Intermediation Research Society Conference
	ASU Sonoran Finance Conference
	Stanford Financing of Innovation Summit
2017	Anniversary NES Academic Conference
	Private Equity Conference, UNC Kenan-Flager Business School
	Workshop on Finance and Innovation, University of California, Berkeley
	New Frontiers in Banking Research Conference
2016	National Bureau of Economic Research, Summer conference, Boston

	Private Equity Conference, Duke University
	American Finance Association Meeting, Chicago
2015	American Finance Association Meeting, Boston
	Causal Inference in Finance and Economics, London Business School
2014	Causality in Social Sciences, Stanford
2013	National Bureau of Economic Research Meeting, Stanford
	American Finance Association Meeting, San Diego
	Duke-UNC Finance Conference
2012	American Finance Association Meeting, Chicago (2 papers)
	American Economic Association Meeting, Chicago
	Finance Theory Group, HBS Meeting
	New Economic School 20th Anniversary Conference (2 papers)
2011	European Finance Association Meeting, Stockholm
2010	American Economic Association Meeting, Atlanta
	Corporate Finance Workshop, Carlson School of Management, University of Minnesota
2009	Western Finance Association Meeting, San Diego
	2nd FARFE conference in honor of Hayne Leland
2008	American Finance Association Meeting, New Orleans (2 papers)
	UNC Tax Symposium
	UBC Summer Finance Conference, Whistler
	Western Finance Association Meeting, Hawaii
	Shifting Capital Markets & Corporate Performance, Yale SOM
2007	Western Finance Association Meeting, Montana (2 papers)
	Duke-UNC Asset pricing conference
	13th Mitsui Symposium on Finance, U. of Michigan
	European Finance Association Meeting, Ljubljana
2006	Western Finance Association Meeting, Keystone
	Asset Returns and Firm Policies, Verona, Italy
2005	European Finance Association Meeting, Moscow
	American Finance Association Meeting, Philadelphia
2004	American Finance Association Meeting, San Diego
	Western Finance Association Meeting, Vancouver
	European Finance Association Meeting, Maastricht (2 papers)
	Recent Advances in Credit Risk Research, New York
2003	American Finance Association Meeting, Washington (2 papers)
	European Finance Association Meeting, Glasgow
	Credit Risk and Risk Management, Verona
2002	American Finance Association Meeting, Atlanta
	European Finance Association Meeting, Berlin
	Financial Management Association European Meeting, Paris
	European Financial Management Association Meeting, Lugano
	Auctions and Market Design, Milan, Italy
2001	European Finance Association Meeting, Barcelona

B. Invited presentations

2024	Private Markets Research Conference, Lausanne (keynote speaker)
2022	Ross School of Business, Univerity of Michigan
2021	Virtual Corporate Finance Seminar, Dartmouth Tuck School of Business
2020	Virtual finance seminar, Michigan State University
2018	Harvard University; UNC Kenan-Flager Business School; Columbia Business School
2016	University of Melbourne; NVCA Board of Directors; University of British Columbia;
2015	Imperial College, London; University of Amsterdam; University of Lausanne
2014	Bank of Canada; University of Zurich; Tsinghua University School of Economics and Management; Cheung Kong Graduate School of Business
2013	University of Texas at Austin; University of Oklahoma; Mendoza College of Business, University of Notre Dame; ESSEC Business School
2012	Darden School of Business, University of Virginia; Lancaster University; London Business School
2011	Ohio State University; Simon School of Business, University of Rochester; Olin Business School, University of Washington; Federal Reserve Bank of Philadelphia; New Economic School, Moscow; Higher School of Economics, Moscow
2010	University of Vienna; Brunel University; Copenhagen Business School; Said School of Business, Oxford University; University of Exeter; London School of Economics; Arizona State University; Erasmus University, Rotterdam; Nova School of Economics & Business, Lisbon
2009	Georgia State University; Marshall School of Business, USC; Michigan Business School; Stern School of Business, NYU; Imperial College
2008	Owen School of Management; Vanderbilt University; University of Illinois at Urbana-Champaign; Boston College; London Business School; Stockholm School of Economics; University of Maryland; Columbia Business School; Yale School of Management; Florida State University; Anderson School of Management, UCLA; Colorado University at Boulder
2007	Norwegian School of Business, University of Bergen; Wharton School, University of Pennsylvania; National University of Singapore; Singapore Management University; Nanyang Technological University; Smeal College of Business, Penn State University, Hong Kong University of Science and Technology; Chicago GSB
2006	Baruch College, City University of New York; Fuqua School of Business, Duke University; Kenan-Flagler School of Business, University of North Carolina; University of Toronto; MIT Sloan
2005	Arizona State University; Joint Stanford/Berkeley Finance seminar; Toulouse Business School; University of Lausanne; University of Vienna
2004	Binghamton University; Federal Bank of New York; Federal Reserve Board, Washington, D.C.; University of Wisconsin - Madison; McCombs School of Business, University of Texas at Austin; GSIA, Carnegie-Mellon University; Johnson School of Management, Cornell University; Graduate School of Business, Stanford University; Anderson School of Management, UCLA; Kellogg School of Management, Northwestern University; Simon School of Business, Rochester University; Columbia Business School; Stern School of Business, New York University; Goizueta Business School; Emory University; Harvard Business School; Michigan

Business School; Wharton School, University of Pennsylvania; London School of Economics

2003 Bologna University; Verona University; Said Business School, Oxford University; The Judge Institute of Management, Cambridge University; Venice University; Turin University

2002 Hebrew University, Jerusalem; School of Business, Tel Aviv University

2001 Padova University; Toulouse Business School

Awards and Distinctions

2021–2022 Shanahan Family Faculty Fellow, Stanford GSB

2021 First Place, Jensen prize, *Journal of Financial Economics*

2021 The Inaugural Doriot Award for the Best Private Equity Research Paper

2020 Professor of The Week, Poets & Quants

2017 Best Paper, Private Equity Research Consortium Best Paper Award

2017 Highly commended paper, Best Private Equity paper 2017, Savvy Investor Awards

2014–2015 Dhirubhai Ambani Faculty Fellow in Entrepreneurship, Stanford GSB

2014 Finalist, 2014 TIAA-CREF Paul A. Samuelson Award

2013–2014 Shanahan Family Faculty Scholar, Stanford GSB

2013 The Sloan Teaching Excellence Award, Stanford GSB

- Awarded annually to one faculty member by Stanford Sloan fellows

2011 First Place, Fama–DFA Prize, *Journal of Financial Economics*

2010–2011 Spence Faculty Scholar, Stanford GSB

2010 The Masters in Management Inaugural Best Teacher Award, London Business School

- Awarded annually to one faculty member by LBS MiM students

2009 The MBA Distinguished Teacher Award, Stanford GSB

- Awarded annually to one faculty member by Stanford MBA students

2008 The MBA Distinguished Teacher Award (shortlisted), Stanford GSB

2007 First Paper Prize, Brattle Award, *Journal of Finance*

2007 Distinguished Alumni Award, New Economic School

2007 The Best Paper Award, 13th Mitsui Symposium on Finance, U. of Michigan

2007 The MBA Distinguished Teacher Award (shortlisted), Stanford GSB

2006–2007 Fletcher Jones Faculty Scholar, Stanford GSB

2005 Moody's Grant for $30,000 (with S. Schaefer)

2004 The Dimitris N. Chorafas Foundation Award for the best paper

2004 The Trefftzs Award, Western Finance Association

2003–2004 Inquire UK research grant for GBP10,000 (with S. Schaefer)

2003–2004 Inquire Europe research grant for euro 10,000 (with S. Schaefer)

2003 Lehman Brothers Fellowship for Research Excellence in Finance (finalist)

2002–2004 Kaplanis Fellowship, London Business School

2001–2002 Citigroup Ph.D. Scholar, London Business School

1996–1997 MacArthur Foundation grant for $10,000

1995–1997 Moscow Mayor Scholarship

Select Ongoing Professional Academic Activities

- Member, Scientific Council, Tilburg School of Economics and Management, 2021–
- Faculty Director, Stanford GSB Venture Capital Initiative, Stanford University, 2015–
- Faculty Advisor, Center for Entrepreneurial Studies, Stanford GSB, 2012–
- Member of Faculty Senate, Stanford University, 2021–
- Board Member, American Friends of NES (AFNES), 2008–

Select Ongoing Professional Industry Activities

- Faculty leader, executive workshops and economic consulting, 2010–
- Expert witness, multiple legal cases, 2015–

Select Expert Witness Work, including all expert testimony within the last five years

- Expert witness, Confidential arbitration, in a dispute related to the venture capital industry, JAMS, Report 2025
- Expert witness, Confidential arbitration, in a dispute related to the private equity industry, JAMS, Report 2025, Deposition 2025
- Expert witness, Biao Wang, Individually and on Behalf of All Others Similarly Situated, vs. Zymergen, Inc. et al., United States District Court, Northern District of California, San Jose Division, Case No. 5:21-cv-06028-PCP, Report 2025
- Expert witness, Facebook Inc. Derivative Litigation, Court of Chancery of the State of Delaware,C.A. No. 2018-0307-JTL, Report 2025, Rebuttal Report 2025, Deposition 2025
- Expert witness, Redwood Liquidating Co. v. Paul Hastings LLP and Does 1-20, inclusive, Case No. 23STCV15242, Superior Court of the State of California, County of Los Angeles, Report 2025, Rebuttal Report 2025, Deposition 2025
- Expert witness, SEC Inquiry In The Matter of GrubMarket, Inc., Declaration 2024
- Expert witness, Pierre Caland v. Alexander J. Davis, Superior Court of the State of California, County of Los Angeles – West District, Case No. 21SMCV01083, Report 2024, Deposition 2024
- Expert witness, Citigroup Global Markets Inc., et al. v. SCIP Capital Management, LLC and The Silverfern Group, Inc., Supreme Court of the State of New York, New York County, 651031/2019, Report 2022, Rebuttal Report 2022, Deposition 2022, Trial Testimony 2024

- Expert witness, Confidential arbitration, in a dispute related to the acquisition of a public company, JAMS, Report 2024, Trial Testimony 2024
- Expert witness, Valhalla Partners II, L.P. et al., v. Vistar Media, Inc., Delaware Chancery Court, C.A. No. 2019-0101-SG, Report 2022, Deposition 2022, Trial Testimony 2024
- Expert Witness, Johnson v. Friedensohn, et al., No. CGC-19-580960, Superior Court of the State of California, County of San Francisco, Declaration 2023, Deposition 2023
- Expert witness, Confidential arbitration, in a dispute between a PE firm and its investor, Report 2023, Report 2023, Trial Testimony 2023
- Expert Witness, in Toptal, LLC, vs. Denis Grosz and Mechanism Ventures, LLC, Second Judicial District Court of the State of Nevada, Case No. CV20-00555, Report 2023, Report 2023, Deposition 2023
- Expert witness, Confidential arbitration, in a dispute between a VC firm and its former partners, Report 2023, Report 2023, Deposition 2023, Trial Testimony 2023
- Expert witness, in In Re: Packaged Seafood Products Antitrust Litigation, Case No. 15-md-02670-JLS-MDD (S.D. Cal.), Report 2019, Deposition 2019, Report 2022, Report 2023, Deposition 2023
- Expert witness, in AllRounds, Inc. v. eShares et al., Case No. 3:20-CV-07083-VC-DMR, Report 2022, Deposition 2022
- Expert witness, Khosla Ventures IV, LP, Khosla Ventures IV (CF), LP v. Neutron Holdings, Inc., Brad Bao, David Richter, and Michael Hillman; Khosla Ventures IV, LP, Khosla Ventures IV (CP), LP v. Structural Capital Investments II, LP, Ocean II PLO LLC, Shojin Enterprises, LLC, and Neutron Holdings, Inc., Superior Court of the State of California, County of San Francisco, Declaration 2022, Deposition 2022
- Expert witness, Confidential arbitration, Individual v. Management company, JAMS, Report 2021, Report 2021, Trial Testimony 2022
- Expert witness, in Sean Rad et al., v. IAC/InteractiveCorp, Match Group, Inc., and Match Group, LLC, Supreme Court of the State of New York, Index No. 654038/2018, Report 2021, Rebuttal Report 2021, Deposition 2021
- Expert witness, Confidential arbitration, Investor v. Fund Manager, American Arbitration Association, Report 2021, Trial Testimony 2021
- Expert witness, in YA Global Investments, et al., v. Commissioner of Internal Revenue, Docket No. 14546-15, 28751-15, Report 2020, Deposition 2020, Trial Testimony 2020
- Expert witness, Confidential dispute, Investors v. Company, U.S. District Court for the Northern District of California, Mediation Report 2020
- Expert witness, in Robinson and Moorthy v. Koo et al., JAMS ADR, Case No. 1100101991, Report 2020, Trial Testimony 2020
- Expert witness, in Facebook, Inc. & Subsidiaries v. Commissioner of Internal Revenue, Docket No. 21959-16, Report 2019, Report 2021, Trial Testimony 2022
- Expert witness, in ICSID Case No. UNCT/19/1: Maria Lazareva v. The State of Kuwait, Report 2019, Report 2020, Trial Testimony 2021
- Expert witness, in Allison Huynh v. Scott Hassan, Case No. 615FL013853, Deposition 2017, Report 2018, Deposition 2018, Trial Testimony 2021

Editorial Activities

- Associate Editor, *Finance Research Letters*, 2013–2017
- Associate Editor, *Management Science*, 2012–2016
- Referee for *American Economic Review*, *Econometrica*, *European Finance Review*, *Journal of Corporate Finance*, *Journal of Economic Dynamics and Control*, *Journal of Finance*, *Journal of Financial and Quantitative Analysis*, *Journal of Financial Economics*, *Journal of Financial Intermediation*, *Journal of Financial Markets*, *Journal of Political Economy*, *Journal of Royal Statistical Society*, *Management Science*, *Quarterly Journal of Economics*, *Rand Journal of Economics*, *Review of Finance*, *Review of Financial Studies*.

Past Professional Activities

- Faculty Director, The Emerging CFO, Stanford GSB Executive Education Program, 2012–2023
- Director, European Finance Association, 2019–2022
- Member, Committee on Graduate Studies, Stanford University, 2017–2020
- Member, Dean's Advisory Group, Stanford GSB, 2012–2015
- Faculty Director, Strategic Leadership for CFOs, Enterprise Ireland/Stanford GSB Executive Education Program, 2010–2015
- Member, AFA Nominating Committee, 2014
- Board Member, Finance Theory Group, 2011–2013
- Finance Ph.D. Liaison, Stanford GSB, 2011–2013
- Member, Executive Education Faculty Oversight Committee, Stanford GSB, 2011–2013
- Member, CREEES (Stanford Center for Russian, East European, and Eurasian Studies) Steering Committee, 2010–2013
- Finance Ph.D. admission coordinator, Stanford GSB, 2010–2011
- Co-chair, Corporate Theory workshop committee, 2010–2011
- Co-organizer, NBER Corporate Finance meeting, Stanford, November 2011
- Co-organizer, 4th Corporate Theory workshop, Stanford, May 2011
- Member, Conference Program Committee, "Stability and Risk Control in Banking, Insurance and Financial Markets", Venice, 2011
- Chairman, Conference Program Committee, "Credit Risk, Financial Crisis, and the Macroeconomy", Venice, 2009
- Panelist, PhD in Finance Project, WFA 2009 meeting, San Diego; WFA 2010 meeting, Victoria
- Session organizer, AFA 2010 Meeting; WFA 2011 Meeting
- Associate Chair, WFA 2010 meeting program committee; Member, WFA 2008, 2011 meetings program committee
- Discussant, NBER Corporate Meeting, 2010; NBER Asset Pricing Meeting , 2012 (scheduled)
- Discussant, American Finance Association Meetings (2005, 2006 (2), 2007, 2009 (2))

- Discussant, Western Finance Association Meetings, (2005, 2009, 2010)
- Discussant, European Finance Association Meetings (2000–2003, 2005 (2))
- Reviewer, Social Sciences and Humanities Research Council of Canada
- Co-organizer, SITE Workshop on "Dynamic Investment and Financing", Stanford, 2007
- Member, EFA meeting program committee (2005, 2009)
- Faculty leader, PhD Corporate Finance reading group, Stanford GSB, 2004–2005
- Member, Spencer Award Committee, Stanford GSB, 2006
- Finance seminar co-organizer, Stanford GSB, 2005–2006
- Faculty member, MBA academic committee, Stanford GSB, 2006–2007
- Co-founder of weekly Ph.D. Lunch Seminars at LBS

Giving back

2004–2024 Anna S. Dvornikova and Ilya A. Strebulaev Fund, New Economic School

- Financial support for NES students applying to Ph.D. Programs (GRE, GMAT, TOEFL, applications, airfare)
- 159 students received support over these years

Teaching Experience

MBA Program	*Venture Capital and Angels: Finance and Decision-Making*, Stanford GSB: Fall 2023 (144 students), Fall 2022 (144 students), Fall 2021 (132 students), Fall 2020 (128 students), Fall 2019 (119 students), Fall 2018 (110 students), Fall 2017 (123 students), Fall 2016 (117 students), Fall 2014 (84 students), Fall 2013 (80 students), Winter 2013 (85 students)
	Economics of the Private Equity Industry, Stanford GSB: Fall 2023 (72 students), (Fall 2022 (72 students), Fall 2021 (48 students)
	Corporate Finance (core/elective, case-based), Stanford GSB: 2012 (46 students), 2011 (56 students), 2008 (110 students), 2006 (179 students), 2007 (101 students), 2005 (45 students); LBS: 2010 (65 students)
Sloan/MSx Program	Finance (core), Stanford GSB (Fall 2017, Fall 2014, Fall 2013, Winter 2013)
Executive Education	Innovation, venture capital, angel investment; Financial decision-making, strategic judgment in decision-making, behavioral finance; Finance strategy, corporate finance, risk management, 2010–2021
Masters in Management Program	Finance (core): LBS, 2010 (115 students)
Ph.D./Research Programs	Venture Capital and Innovation, Stanford GSB, 2018–2021
	Advanced Corporate Finance, Stanford GSB, 2007–2009, 2011–2015

Graduate Students

2014–2019 Roy Roth (Ph.D. advisor), 1st job: Analysis Group

2013–2018 Daria Anosova (Ph.D. co-advisor), 1st job: Cornerstone Research

2012–2017 Akitada Kasahara (Ph.D. co-advisor), 1st job: Waseda University

2011–2016 Michael Schwert (Ph.D. advisor), 1st job: Ohio State University

2010–2015 Will Gornall (Ph.D. advisor), 1st job: University of British Columbia

2010–2015 Pavel Zryumov (Ph.D. advisor), 1st job: Wharton School, University of Pennsylvania

2008–2013 Will Cong (Ph.D. co-advisor), 1st job: Booth Graduate School of Business, University of Chicago

2007–2010 Alexander Gorbenko (Ph.D advisor), 1st job: London Business School

2006–2009 Zhipeng Zhang (Ph.S. co-advisor), 1st job: Boston College

2005–2008 Baozhong Yang (Ph.D. co-advisor), 1st job: Georgia State University

2005–2007 Scott Joslin (Ph.D. reading committee), 1st job: MIT Sloan

2004–2006 Leandro Saita (Ph.D. reading committee), 1st job: Goldman Sachs

Research Interests

- Venture capital, angel investments, private equity
- Corporate innovation, corporate venture capital
- Financing innovation, innovative ecosystems, entrepreneurial finance
- Financial decision-making, dynamic corporate finance, behavioral biases, real options

Teaching Interests

MBA	Venture capital, private equity, entrepreneurial finance
Executive Education	Venture capital, innovation, Silicon Valley; Finance strategy, strategic judgment in decisions
Ph.D.	Corporate finance, Financing innovation

Personal Information

- Date of Birth: 17 May 1975
- Marital Status: Married, 2 children
- Languages: English, Russian (mother tongue), Italian (basics)
- Hobbies: Wine, Science and Innovation, Classical Music, Opera, Philately, Travel, History and Culture (in particular: British, Italian, Russian)

Appendix B: Materials Relied Upon

Legal Documents

Apple Tree Partners IV, L.P. Limited Partnership Agreement dated November 1, 2012 and all Amendments

ATP III GP, LTD., in its capacity as general partner of ATP Life Science Ventures, L.P., v. RIGMORA BIOTECH INVESTOR ONE LP and RIGMORA BIOTECH INVESTOR TWO LP, In the Court of Chancery of the State of Delaware, Verified Complaint, May 30, 2025 and all Exhibits

In the Grand Court of the Cayman Islands, Financial Services Division, Cause No: FSD 146 of 2025 (JAJ) Between Icorn Biotech Ventures One LTD (in its capacity as general partner of Rigmora Biotech Investor One LP), Icorn Biotech Ventures Two LTD (in its capacity as general partner of Rigmora Biotech Investor Two LP) and ATP III GP, LTD (in its capacity as general partner of ATP Life Science Ventures, L.P.), Third Affidavit of Dr. Seth L Harrison, July 22, 2025

Deposition of Paul Da Silva Jardine, August 4, 2025 and Exhibits

Deposition of William Engels, August 7, 2025 and Exhibits

Produced Documents

ATP Life Sciences Ventures, L.P., Consolidated Financial Statements and Report of Independent Certified Public Accountants As of and for the Year Ended December 31, 2024 (ATP_00000253)

DCF Group, Valuation Analysis of Holdings in Apertor Pharmaceuticals, Inc., December 31, 2024 (ATP_000002112)

ATP email from April 4, 2025 requesting capital contribution (ATP_00004656)

ATP Life Science Ventures, LP, First Quarter Report as of March 31, 2025 (ATP_00004667)

Schedule of Partners Capital Account for Ezbon International/Rigmora Biotech Investor Two LP for period ended December 31, 2024 (ATP_00004720)

ATP Life Sciences Ventures, LP, Fourth Quarter 2024 Report as of December 31, 2024 (ATP_00004868)

ATP email from March 18, 2025 requesting capital contribution (ATP_00005059)

ATP email from January 10, 2025 requesting capital contribution (ATP_00005069)

ATP email from January 8, 2025 requesting capital contribution (ATP_00005073)

ATP email from April 14, 2025 requesting capital contribution (ATP_00022139)

ATP email from April 3, 2025 requesting capital contribution (ATP_00022208)

ATP email from February 7, 2025 requesting capital contribution (ATP_00022241)

ATP email from January 6, 2025 requesting capital contribution (ATP_00022284)

ATP emails from June 13, 2024 listing updates on business development efforts by ATP (ATP_00023582)

ATP Life Science Ventures, L.P., Year End Report, as of December 31, 2021 (ATP_00028644)

Email from Raj Chopra to Seth Harrison, February 19, 2024 (ATP_00040854)

Emails between ATP, April 2024 (ATP_00069061)

Emails between ATP and Red Queen, March 2024 (ATP_00071529)

Assignment and Assumption Agreement between Blue Horizon and Rigmora Biotech Investor One, July 10, 2024 and Assignment and Assumption Agreement between Ezbon International Limited and Rigmora Biotech Investor Two, July 10, 2024 (ATP_00081652)

Email from William Engels to Seth L. Harrison and Anna Batarina, May 22, 2025 (ATP_00089183)

ITD Capital 12.31.24.xlsx (ATP_00089527)

Annex A - Amendment 20 Schedules vFinal.xlsx (ATP_00116522)

ATP email from May 6, 2025 requesting capital contribution (ATP_00119271)

ATP email from May 6, 2025 requesting capital contribution (ATP_00119275)

ATP email from January 23, 2025 requesting capital contribution (ATP_00119678)

ATP email from February 3, 2025 requesting capital contribution (ATP_00119681)

ATP email from January 15, 2025 requesting capital contribution (ATP_00119685)

ATP email from January 15, 2025 requesting capital contribution (ATP_00119688)

ATP email from February 11, 2025 requesting capital contribution (ATP_00119822)

Email from Daniel Finkelman to JP Morgan, April 10, 2024 (ATP_00244733)

2024.12.31 Fund Model.xlsx (ATP_00264756)

Email from Paul Da Silva Jardine to Joseph Yanchik, May 30, 2025 (ATP_00279725)

ATP Pool IV Hypothetical Waterfall v2.xlsx (ATP_00299846)

V-1 and V-2 Waterfall.xlsx (ATP_00341392)

Aethon Investment Memorandum, November 2022, (RIGMORA00000529)

Email from Yuri Bogdanov to Dr. Harrison, May 22, 2025 (RIGMORA00015360)

Email from Yuri Bogdanov to Dr. Harrison, May 22, 2025 (RIGMORA00015362)

ATP Annual Review, January 2021 (RIGMORA00019329)

Academic Sources and Journal Articles

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Berk, Jonathan and Peter DeMarzo, Corporate Finance, (Pearson, 2017)

Block, Zenas and Ian C. MacMillan, "Milestones for Successful Venture Planning," *Harvard Business Review*, September 1985, *available at* https://hbr.org/1985/09/milestones-for-successful-venture-planninghttps://hbr.org/1985/09/milestones-for-successful-venture-planning

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Chakraborty, Imon, Sisira Edirippulige, and P. Vigneswara Ilavarasan, "What is coming next in health technology startups? Some insights and practice guidelines," *Digital Health*, May 10, 2023

Cuny, Charles and Eli Talmor, "The Staging of Venture Capital Financing: Milestone vs. Rounds," April 2005, *available at* https://papers.ssrn.com/sol3/papers.cfm?abstract_id=487414

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Gompers, Paul A,, "Optimal Investment, Monitoring, and the Staging of Venture Capital" *The Journal of Finance*, December 1995, Vol. 50, no. 5, pp. 1461 – 1489

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Gornall, Will and Ilya Strebulaev "The Contracting and Valuation of Venture Capital-Backed Companies," in The Handbook of the Economics of Corporate Finance, Vol 1: Private Equity and Entrepreneurial Finance, 2023

Lerner, Josh and Ann Leamon, Venture Capital, Private Equity and the Financing of Entrepreneurship, Second Edition (Hoboken, NJ: John Wiley & Sons, Inc., 2023)

Metrick, Andrew and Ayako Yasuda, "The Economics of Private Equity Funds," *Oxford Journals*, 2010

Metrick, Andrew and Ayako Yasuda, Venture Capital & the Finance of Innovation, Third Edition (Hoboken, NJ: John Wiley & Sons, Inc., 2021)

Puri, Manju and Rebecca Zarutskie, "On the Life Cycle Dynamics of Venture-Capital- and Non-

Venture-Capital-Financed Firms," *The Journal of Finance*, Vol. 67, No. 6, December 2012, 2247–2293

Shimasaki, Craig, Biotechnology Entrepreneurship, Second Edition (London, UK: Elsevier, 2020)

Sun, Duxin, Wei Gao, Hongxiang Hu, and Simon Zhou, "Why 90% of clinical drug development fails and how to improve it?" *Acta Pharmaceutica Sinica B*, Vol. 12, Issue 7, July 2022

Talmor, Eli and Florin Vasvari, International Private Equity, (West Sussex, UK: John Wiley & Sons, 2011)

Wang, Dan, Emily Cox Pahnke, and Rory M. McDonald, "The Past Is Prologue? Venture-Capital Syndicates' Collaborative Experience and Start-Up Exits," *Academy of Management Journal*, Vol. 65, No. 2, April 2022, pp. 371–402

Industry Reports

"Focus on fundamentals to bounce back: EY Biotech Beyond Borders Report 2025," *EY Insights*, 2025

Websites

Investigational New Drug (IND) Application, *FDA*, *available at* https://www.fda.gov/drugs/types-applications/investigational-new-drug-ind-application

Stanford Graduate School of Business Library database guide, *available at* https://libguides.stanford.edu/pitchbook

Data Sources

Pitchbook (https://pitchbook.com/)

Preqin (https://www.preqin.com/)

All other data/documents cited in the report and exhibits.

Appendix C

Summary of Eurie's Pools and Investments

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Amended and Restated LPA (11/1/12) [A]	Amendment 13 (2/4/19) [B]	Amendment 17 (9/9/20) [C]	Amendment 18 (11/5/20) [D]	Amendment 19 (Name Changes) (11/27/20) [E]	Pool Assets As of 2020Q4 [F]	Amendment 20 (6/21/21) [G]	Pool Assets As of 2021Q4 [H]	Pool Assets As of 2025Q1 [I]
No Pools	**Pool A** Other Projects	**Pool A** Other Projects	**Company Building Pool A** Other Projects	**ATP IV**	**ATP IV** 1. Akero **2. Ascidian** 3. Braeburn 4. Gala 5. Galaxy 6. Galvanize 7. Intergalactic **8. Marengo** 9. Stoke	**ATP IV** 1. Akero shares distributed to the limited partners in carry mode 2. Stoke shares distributed to limited partners in carry mode 3. Other securities transferred to ATP V-3 * Only remaining assets are contingency payments related to the sales or mergers of (1) Corvidia, (2) Syntimmune (3) Tendyne and (4) Tusker	**ATP IV** Contingency payments related to sales or mergers of: 1. Corvidia 2. Syntimmune 3. Tendyne 4. Tusker 1. Vytron (Year end Report Says Fully Exited)	**ATP IV** Contingency payments related to sales or mergers of: 1. Corvidia 2. Syntimmune 3. Tendyne 4. Tusker
	Pool B New Projects	**Pool B** 1. Chinook Therapeutics **2. Initial Therapeutics** **3. Nine Square**	**Company Building Pool B** 1. Chinook Therapeutics **2. Initial Therapeutics** **3. Nine Square**	**ATP V-1** Hereafter sometimes jointly (with ATP V-2) referred to as ATP V	**ATP V** (Year End Report Does Not Break Out V-1 & V-2) **1. Apertor** **2. Aulos** 3. Chinook **4. Initial** **5. Nereid** **6. Nine Square** **7. Replicate**	**ATP V-1** (Not disclosed in Amendment 20)	**ATP V-1** **1. Initial** **2. Nine Square**	**ATP V-1** **1. Initial** **2. Nine Square**
		Pool C Kynos New investments after 9/9/20	**Company Building Pool C** Kynos New investments after 9/9/20	**ATP V-2** Hereafter sometimes jointly (with ATP V-1) referred to as ATP V		**ATP V-2** (Not disclosed in Amendment 20)	**ATP V-2** 1. Adendra **2. Apertor** **3. Aulos** **4. Deep Apple** **5. Evercrisp** **6. Marlinspike** **7. Nereid** **8. Red Queen** **9. Replicate**	**ATP V-2** **1. Aethon** **2. Apertor** **3. Aulos** **4. Deep Apple** **5. Evercrisp** **6. Marlinspike** **7. Nereid** **8. Red Queen** **9. Replicate**
			Core Holdings Pool 1 Consist of assets that may be distributed from Company Building Pool A and / or Company Building Pool B	**Core Holdings Pool 1**		**Holding Pool 1** Assets may be distributed from ATP V-1 or V-3	**Holding Pool 1**	**Holding Pool 1**
			Core Holdings Pool 2 Consist of assets that may be distributed from Company Building Pool C	**Core Holdings Pool 2**		**Holding Pool 2** Assets may be distributed from ATP V-2	**Holding Pool 2**	**Holding Pool 2**
						Pool Braeburn 1. Braeburn Inc. (previously in Pool IV)	**Pool Braeburn** 1. Braeburn Inc.	**Pool Braeburn** 1. Braeburn Inc.
						ATP V-3 (previously in Pool IV) **1. Ascidian Therapeutics** 2. Gala Therapeutics 3. Galary 4. Galaxy Medical 5. Galvanize Therapeutics 6. Intergalactic Therapeutics **7. Marengo Therapeutics**	**ATP V-3** **1. Ascidian Therapeutics** 2. Gala Therapeutics 3. Galaxy Medical 4. Galvanize Therapeutics 5. Intergalactic **6. Marengo Therapeutics**	**ATP V-3** **1. Ascidian Therapeutics** 2. Galvanize Therapeutics **3. Marengo Therapeutics**

Early-Stage Companies are in **red** and the Remaining Companies at Issue are in **green**.

[A] Apple Tree Partners IV, L.P., First Amended and Restated Limited Partnership Agreement, dated November 1, 2012.

[B] AMENDMENT NO. 13 to the First Amended and Restated Limited Partnership Agreement of Apple Tree Partners IV, L.P., dated February 4, 2019.

[C] AMENDMENT NO. 17 to the First Amended and Restated Limited Partnership Agreement of Apple Tree Partners IV, L.P., dated September 9, 2020.

[D] AMENDMENT NO. 18 to the First Amended and Restated Limited Partnership Agreement of Apple Tree Partners IV, L.P., dated November 5, 2020.

[E] AMENDMENT NO. 19 to the First Amended and Restated Limited Partnership Agreement of Apple Tree Partners IV, L.P., dated November 27, 2020.

[F] ATP Annual Review, January 2021 (RIGMORA00019329).

[G] AMENDMENT NO. 20 to the First Amended and Restated Limited Partnership Agreement of ATP Life Science Ventures, L.P., dated June 21, 2021.

[H] ATP Life Science Ventures, L.P., Year End Report, as of December 31, 2021 (ATP_00028644).

[I] ATP Life Science Ventures, L.P., First Quarter 2025 Report, as of March 31, 2025 (ATP_00004667).

Appendix D
At Issue Investments

	Date of Initial Investment	Name	Description	Current Fund Pool	Early-Stage Company Per 5/15/25 Email
1	11/25/15	Marengo	Developing novel immune oncology therapeutics.	ATP V-3	
2	03/13/20	Ascidian	Developing genetic medicines for rare diseases.	ATP V-3	
3	06/16/20	Nine Square	Developing novel therapies for movement disorders.	ATP V-1	
4	07/02/20	Initial Therapeutics	Developing therapies focused on protein translation.	ATP V-1	X
5	10/30/20	Aulos	Developing targeted immunological therapies for cancer.	ATP V-2	
6	10/13/20	Nereid	Developing therapies focused on the modulation of biomolecular condensates.	ATP V-2	
7	11/05/20	Apertor	Developing rapamycin analogs in age-related diseases.	ATP V-2	X
8	02/04/21	Replicate	Developing RNA medicines for cancer.	ATP V-2	
9	08/11/21	Evercrisp	Developing CRISPR protein-based genome editors.	ATP V-2	X
10	08/12/21	Red Queen	Developing antiviral technology to fight SARS-CoV-2 resistance mutations.	ATP V-2	X
11	08/12/21	Deep Apple	Developing technology to aid in drug discovery and development.	ATP V-2	X
12	02/02/22	Marlinspike	Creating a platform to aid in drug development.	ATP V-2	X
13	12/12/22	Aethon	Developing new approaches in immuno-oncology.	ATP V-2	X

Sources: Complaint, ¶ 9; ATP Life Science Ventures, L.P., Consolidated Financial Statements and Report of Independent Certified Public Accountants, as of and for the Year Ended December 31, 2024 (ATP_00000253); Email from Yuri Bogdanov to Seth Harrison, dated May 15, 2025 with subject: early stage companies (Complaint Exhibit 10).

Appendix E
Comparable Biotechnology Funds
As of December 31, 2024

				Preqin			Pitchbook			Data Used			
	Fund Name [1]	Size ($M) [2]	Vintage [3]	Net IRR (%) [4]	TVPI [5]	Date Reported [6]	Net IRR (%) [7]	TVPI [8]	Date Reported [9]	Source [10]	Net IRR (%) [11]	TVPI [12]	Date Reported [13]
1	Versant Vantage II	254	2020	n/a	1.09	31-Dec-2024	n/a	n/a	n/a	Preqin	n/a	1.09	31-Dec-2024
2	Sante Healthcare Ventures IV	260	2021	24.40	1.45	30-Sep-2024	20.40	1.38	31-Dec-2024	Pitchbook	20.40	1.38	31-Dec-2024
3	SV7 Impact Medicine Fund	265	2019	16.30	1.50	31-Dec-2024	16.58	1.48	30-Sep-2024	Preqin	16.30	1.50	31-Dec-2024
4	SV Biotech Crossover Opportunities Fund	268	2021	101.20	n/a	31-Dec-2024	103.41	2.14	30-Sep-2024	Preqin	101.20	n/a	31-Dec-2024
5	Alta Partners NextGen Fund III	275	2021	4.00	1.08	31-Dec-2024	4.00	1.10	31-Dec-2024	Preqin	4.00	1.08	31-Dec-2024
6	RiverVest Venture Fund V	275	2021	-5.90	0.88	31-Dec-2024	n/a	0.88	31-Dec-2024	Preqin	-5.90	0.88	31-Dec-2024
7	Two Sigma Ventures III	288	2019	21.70	2.08	31-Dec-2024	n/a	2.08	31-Dec-2024	Preqin	21.70	2.08	31-Dec-2024
8	Atlas Venture Opportunity Fund II	300	2021	n/a	1.60	30-Sep-2024	n/a	n/a	n/a	Preqin	n/a	1.60	30-Sep-2024
9	5AM Ventures VI	350	2019	7.20	1.26	31-Dec-2024	5.70	1.25	31-Dec-2024	Preqin	7.20	1.26	31-Dec-2024
10	Cure Ventures Fund I	350	2021	-24.80	n/a	31-Dec-2024	-24.80	0.73	30-Sep-2024	Preqin	-24.80	n/a	31-Dec-2024
11	DCVC Bio II	350	2020	5.20	1.09	31-Dec-2024	5.16	1.09	31-Dec-2024	Preqin	5.20	1.09	31-Dec-2024
12	Atlas Venture XII	400	2020	n/a	1.14	30-Sep-2024	n/a	n/a	n/a	Preqin	n/a	1.14	30-Sep-2024
13	B Capital Opportunities Fund I	415	2020	11.65	1.34	30-Jun-2024	9.48	1.29	30-Sep-2024	Pitchbook	9.48	1.29	30-Sep-2024
14	Sofinnova Venture Partners XI	500	2021	n/a	1.39	31-Dec-2024	n/a	1.39	31-Dec-2024	Preqin	n/a	1.39	31-Dec-2024
15	Versant Ventures Fund VIII	560	2020	n/a	1.26	31-Dec-2024	n/a	1.26	31-Dec-2024	Preqin	n/a	1.26	31-Dec-2024
16	Longitude Venture Partners IV	585	2020	23.32	1.53	31-Dec-2024	23.32	1.53	31-Dec-2024	Preqin	23.32	1.53	31-Dec-2024
17	Vida Ventures II	600	2019	-9.00	0.76	30-Jun-2024	-9.00	0.76	30-Jun-2024	Preqin	-9.00	0.76	30-Jun-2024
18	Column Group IV	725	2019	n/a	1.42	31-Dec-2024	14.66	1.42	31-Dec-2024	Pitchbook	14.66	1.42	31-Dec-2024
19	Section 32 Fund IV	740	2021	2.50	n/a	31-Mar-2024	n/a	n/a	n/a	Preqin	2.50	n/a	31-Mar-2024
20	Canaan XII	800	2020	0.69	1.01	31-Dec-2024	0.70	1.01	31-Dec-2024	Preqin	0.69	1.01	31-Dec-2024
21	TCG Crossover Fund I	824	2021	n/a	1.57	31-Dec-2024	23.56	1.57	31-Dec-2024	Pitchbook	23.56	1.57	31-Dec-2024
22	Flagship Pioneering Special Opportunities Fund II	824	2019	1.20	1.03	31-Dec-2023	-1.91	0.94	30-Sep-2024	Pitchbook	-1.91	0.94	30-Sep-2024
23	Vida Ventures III	825	2021	-23.29	0.64	31-Dec-2024	-22.99	0.64	31-Dec-2024	Preqin	-23.29	0.64	31-Dec-2024
24	Frazier Life Sciences Public Fund	830	2021	0.10	n/a	31-Dec-2024	n/a	n/a	n/a	Preqin	0.10	n/a	31-Dec-2024
25	ARCH Venture Fund X	1,460	2019	69.07	2.44	30-Sep-2021	12.67	1.67	31-Dec-2024	Pitchbook	12.67	1.67	31-Dec-2024
26	OrbiMed Private Investments VIII	1,467	2020	9.60	1.22	30-Sep-2024	9.26	1.25	31-Dec-2024	Pitchbook	9.26	1.25	31-Dec-2024
27	ARCH Venture Fund XI	1,850	2021	45.97	1.41	30-Jun-2022	10.46	1.30	31-Dec-2024	Pitchbook	10.46	1.30	31-Dec-2024
									Average		9.90	1.27	
									Median		8.23	1.26	
									Top Quartile		15.89	1.46	
									ATP Pool V-1 (2019)		30.60	1.23	31-Dec-2024
									ATP Pool V-2 (2020)		-3.23	0.94	31-Dec-2024
									ATP Pool V-3 (2021)		10.90	1.35	31-Dec-2024
									ATP Pool V-1/V-2/V-3 [14]		7.18	1.16	31-Dec-2024

Notes / Sources:

[1] Sample includes funds with the following characteristics in Preqin: Asset Class – Private Equity; Fund Type & Status – Comingled; Strategy – Venture Capital; Fund Size – greater than or equal to $200 million; Vintage / Inception Year – 2019 to 2021; Sector – Biotechnology; Currency – USD; Geography – North America; Fund Manager Location – North America. Funds were excluded if they did not have either Net IRR or TVPI data reported. After merging on Pitchbook performance measures, funds were excluded if the most recently reported performance metrics were as of a date before March 31, 2024.

[2] Refers to the size of the fund at closing per Preqin.

[3] Defined by Preqin as "the first year of investment/drawdown from the investor."

[4] Defined by Preqin as "Money-weighted return expressed as a percentage. Net IRR uses the present sum of cash contributed, the sum of distributions, and the current value of unrealized investments and applies a discount. This amount should be net of any carry/performance fees earned by the GP."

[5] Defined by Preqin as "Reveals how many times investors have received, or are likely to receive, their money back and make a profit from their investments. It is the sum of the DPI [distributions-to-paid-in] plus RVPI [residual-value-to-paid-in], expressed as a multiple."

[6] Refers to the date of the Net IRR and TVPI metrics in Preqin.

[7] Defined by Pitchbook as "The rate at which the present value of a series of investments is equal to the present value of the returns on those investments." Pitchbook states that it "display[s] only net IRR and net IRR metrics on PitchBook."

[8] Defined by Pitchbook as "The ratio of the current value of remaining investments within a fund, plus the total value of all distributions to date, relative to the total amount of capital paid into the fund to date."

[9] Refers to the date of the Net IRR and TVPI metrics in Pitchbook.

[10] Refers to the source with the latest "Date Reported" value. If Preqin and Pitchbook have the same Date Reported value, then the source with the most data is used, with Prequin as the default.

[11] Refers to the Net IRR from the source in [10].

[12] Refers to the TVPI from the source in [10].

[13] Refers to "Date Reported" from the source in [10].

[14] Data for ATP Pools V-1, V-2 and V-3 per ATP Life Science Ventures, LP Fourth Quarter 2024 Report As of December 31, 2024 (ATP_00004868, at -870) and 2024.12.31 Fund Model.xlsx (ATP_00264756). The Net IRR reported by ATP for Pool V-2 of 0.00% is based on an erroneous excel formula in the Fund Model spreadsheet used to calculate the Net IRR and TVPI for the various pools (ATP_00264756). In particular, cell E394 of the “Net” tab contains an “XIRR” formula that includes the default “estimate” of 0.1, which in this instance does not allow for a valid IRR calculation. Correcting this default “estimate” to -0.1 yields a corrected Net IRR of -3.23% for Pool V-2.

EXHIBIT J

Walkers

BY EMAIL

8 September 2025 Our Ref: JG/SW/RB/197133

Campbells LLP
Floor 4, Willow House
Cricket Square
Grand Cayman KY1-9010
Cayman Islands

Attention: Liam Faulkner, Hugo Farmer and Jordie Fienberg

Dear Sirs

UNICORN BIOTECH VENTURES ONE LTD (IN ITS CAPACITY AS GENERAL PARTNER OF RIGMORA BIOTECH INVESTOR ONE LP) AND UNICORN BIOTECH VENTURES TWO LTD (IN ITS CAPACITY AS GENERAL PARTNER OF RIGMORA BIOTECH INVESTOR TWO LP) V ATP III GP, LTD (IN ITS CAPACITY AS GENERAL PARTNER OF ATP LIFE SCIENCE VENTURES, L.P.)
CAUSE NO. FSD 146 OF 2025 (JAJ)

IN THE MATTER OF ATP LIFE SCIENCE VENTURES, L.P.
CAUSE NO.: FSD 151 OF 2025 (JAJ)

1. We refer to your first letter of 5 September 2025. Unless otherwise stated we adopt the definitions used in your letter and our previous correspondence.

The funding emergency caused by the Rigmora LPs

2. We are surprised by the tenor of your letter, both with regard to your clients' claim to be unaware of the Braeburn Repayment (which we address further below) and the implication that there may be something improper in the Investment Deals or the information provided to your clients in respect of the same.

3. As you are aware, the Delaware Proceedings, Cayman Writ Action and Winding Up Petition all concern your clients' obligation to fund the Partnership through capital calls and to approve budgets for the further investment in the Partnership's portfolio companies. Those issues will be determined by the Delaware Court following the hearing listed for 18-19 September 2025, i.e., in ten days.

4. In the meantime, our client has been placed in an impossible position, whereby it is unable to discharge its duties to the Partnership, both with regard to funding the Partnership's portfolio companies and in respect of the Partnership's expenses. This situation has been caused

Joint Exhibit
JX-2130
C.A. No. 2025-0607-KSJM

solely by your clients starving the Partnership of funding by refusing to meet capital calls or approve budgets in accordance with their obligations under the LPA.

5. The situation the Partnership finds itself in is an emergency. If the Partnership is unable to fund the portfolio companies, those companies will collapse – along with any value they hold for the Partnership. This will have a devastating impact on the value of the Partnership, not to mention the termination of multiple ground-breaking medical research projects.

6. The interim funding discussions between our respective clients have been fruitless. In the circumstances, our client has had no choice but to find alternative means of funding the Partnership's essential expenditure to avoid the catastrophic consequences noted at paragraph 5 above. Similarly, the portfolio companies have had to rely on sources of funding outside of the Partnership. There is nothing improper about that. All transactions undertaken by any portfolio company are fully authorised by their charters, SPAs, etc., and boards.

The Braeburn Repayment and Tendyne Earnout

7. At the outset, we note that it is plainly incorrect to suggest that our client would be required to provide your clients with information regarding the Braeburn Repayment either during the negotiation phrase or immediately upon execution of the deal. The obligations under both section 22 of the ELP Act and paragraph 16(b) and (c) of the LPA relate to a limited partner's right to request (and receive) information.

8. Neither provision imposes an obligation on the general partner to inform limited partners of every business transaction concerning the Partnership as and when it arises. That is in line with sections 14(1) and 20 of the ELP Act and paragraph 2(b) of the LPA, which provide that the day-to-day management of an exempted limited partnership is a matter for the GP. Instead, the LPA imposes annual and quarterly reporting obligations on the GP. Your clients, in a thinly veiled attempt to support their false narrative of the GP providing inadequate information, now attempt to imply there are more stringent reporting obligations than those it agreed to under the terms of the LPA (or indeed, are provided for under the ELP Act).

9. In response to your questions regarding the Braeburn Repayment, we confirm that the repayment constituted an early repayment by Braeburn Inc. of certain convertible loan notes. The Partnership offered the Braeburn board of directors a 10% discount in return for early repayment, which the Braeburn board accepted in order to reduce its interest payments.[1]

10. Notwithstanding the fact that our client was not required to inform your clients of the Braeburn Repayment until the Q3 2025 Quarterly Report, it rejects the claim that the first your clients were aware of the Braeburn Repayment was through Yanchik's Deposition. Mr Yanchik even stated in his deposition that your clients "*had been receiving all the iterations of the documents."* Further, on 28 July 2025, Patrik Blochlinger and Yuri Bogdanov were both copied to an email from Sarah Gohary of Wilson Sonsini Goodrich & Rosati, attaching the latest draft Loan and Security Agreement, making it clear from the content of her email that the

[1] We confirm that Dr Harrison and Mr Yanchik recused themselves from the Braeburn board vote in this respect.

agreement now included the option for Braeburn to make a prepayment of the convertible notes up to US$42 million and that the prepayment would occur "*substantially concurrently with the Second Amendment [i.e. the Loan and Security Agreement] Effective Date*". Your clients raised no objections or concerns upon receiving this email.

11. The repayment received was US$41,736,871.30 on 1 August 2025. In addition, on 31 July 2025, the Partnership received a post-closing earnout payment from Abbott Laboratories in the amount of US$20,025,952.54 in respect of an exit from Tendyne, an older investment of the Partnership ("**Tendyne Earnout**"). As at 1 August 2025, the Partnership therefore held funds of US$61,762,823.84 from these two sources combined (the "**Q32025 Receipts**").[2]

12. The terms of the LPA are clear that the GP is entitled to apply these funds to (a) invest in projects and (b) discharge the Partnership's own expenses. Paragraph 8(c) of the LPA (as amended pursuant to Amendment 4 dated 1 April 2015) provides that:

> *"The General Partner shall cause the Partnership to distribute in cash to the Partners, promptly from time to time, any amounts held by the Partnership which remain after the Partnership has made, or established reserves to make, tax distributions and Tracking Unit distributions which are required by Paragraphs 8(a) end (b), respectively, except to the extent that the General Partner reasonably determines that such amounts may be necessary for paying Partnership and Intermediary expenses, liabilities and other obligations (including investments in Projects consistent with the applicable budgets) and establishing reserves therefor, in each case in accordance with budgets approved by the Board or as provided for in this Agreement in the case of the Management Fee and indemnification obligations, or as otherwise determined by the General Partner with the prior written consent of the holders of a majority of the Preferred Units."* (emphasis added)

13. In the circumstances, the GP is entitled, under the terms of the LPA, to apply the US$61,762,823.84 to the extent necessary to discharge the Partnership's expenses and invest in the portfolio companies, and has done so, as more particularly set out below.

14. The Schedule to this letter sets out all payments made to and from the Partnership's bank account from 31 July 2025 to 4 September 2025. These payments are explained in more detail below. All are types of expenditure that the GP has discharged on behalf of the Partnership for years, without any objection from your clients until recently. The total in outgoing payments since 31 July 2025 made using the Q32025 Receipts is $39,306,044.00. The remaining sum of US$22,456,779.84 is in the Partnership's Banc of California account.

15. In pre-empting any arguments your clients might attempt to run with regard to these being payments made with "their" money, your clients cannot continue to gloss over the reality of the relationship between the parties. If Dr Rybolovlev had wanted to set up a personal investment vehicle over which he had complete control, he could have done so. However, he wanted Dr Harrison's knowledge, expertise, ability and network. In order for Dr Rybolovlev to access

[2] The Partnership's bank account held c.US$2,021,608.60 at the time of the Tendyne Earnout. However, all but c.US$152,000 of this was funds received pursuant to previous capital calls and was therefore ring-fenced for use by the portfolio company in question.

those benefits, the parties agreed to a partnership structure, run by a general partner, pursuant to the Cayman Islands statutory provisions which put that general partner in control of the business. It also included the so-called "*draconian*" default provisions, of which Dr Rybolovlev was well aware when he entered into the LPA via his affiliated entities and which were, and remain, necessary to ensure the proper operation of the Partnership. Dr Harrison explained clearly at the time why the global default mechanism was essential to the effective functioning of the Partnership, and Dr Rybolovlev entered into the arrangement on that basis. Those default measures have gone unchanged for nearly 14 years and throughout 22 amendments.

16. Dr Rybolovlev, through your clients, has now manufactured allegations of there being a breakdown in trust and confidence in order to extricate himself from his contractual obligations – obligations that he well understood and would have been well advised about – because he cannot or does not want to comply with his obligations for further funding. This will be brought out in evidence in both the Delaware and Cayman Proceedings. Given the constraints on the GP in light of the injunction order made by the Cayman Islands Court, the GP must, acting in the best interests of the Partnership, take steps to preserve the Partnership and its assets until such time as your clients' Winding Up Petition has been determined.

Application of Q32025 Receipts

Funding the essential needs of, and investments in, portfolio companies with approved budgets

17. The following companies have essential funding needs relating to running costs and/or research and development pursuant to approved budgets. The following payments have therefore been made:[3]

	Payment made (US$)
Ascidian	6,000,000
Aethon	2,000,000
Replicate	1,500,000
Evercrisp	250,000

18. In the case of the US$6,000,000 budget for Ascidian, this is reflective of the capital call dated 30 May 2025 and represents the total remaining budget for Ascidian. As explained in Dr Harrison's third affidavit in cause number FSD 146 of 2025 (JAJ), US$6,000,000 represents only a small fraction of the funds that Ascidian needs to stay on track with its groundbreaking research into congenital blindness. However, after re-forecasting their budgets, Ascidian management indicated that a US$6,000,000 injection of funding would make a difference to their ability to keep their clinical trial on track. Given the starvation of funding from the Partnership, Ascidian has had to make deep budget cuts and explore alternative funding, hence the discussions with Eli Lilly (described further below) which, assuming the deal closes, comes just in time for Ascidian to make up a portion of missing capital (combined with budget

[3] The payments to Initial Therapeutics and Apertor listed in the Schedule were made from money held pursuant to prior capital calls and were not made from the Q32025 Receipts.

cuts and the US$6,000,000 from the Partnership). Without further funding, Ascidian would have gone to cash zero during the fourth quarter of 2025.

19. The US$2,000,000 paid to Aethon was made to support the company's collaboration agreement with Revolution Medicines, a public biotech company. Revolution Medicines made it clear they had concerns as to Aethon's viability in light of your clients' default and were disinclined to continue the relationship unless Aethon could demonstrate some minimum viability. The Partnership's venture partner overseeing the investment, Paul Jardine, indicated that US$2,000,000 should be sufficient to preserve the Revolution Medicines relationship in the immediate term. However, it is a far cry from the amount Aethon needs to drive its programmes forward.

20. The US$1,500,000 paid to Replicate represents the total amount remaining in Replicate's budget prior to the closing of an upcoming LATAM partnership with Instituto Butantan for the continued development of Replicate's rabies vaccine candidate, which is due to close in Q3 2025.

21. There are payments to Evercrisp totalling US$250,000. Evercrisp has essential funding needs to the end of the year in relation to wages, severance pay, insurance and legal expenses (c. US$555,000) and payments to creditors (c. US$247,000).

22. The basis for the Partnership making these payments is clear: this is expenditure representing the bare minimum for Evercrisp to continue to function. Without it, Evercrisp would collapse; a situation that would mean irreparable harm being caused to the Partnership before the disputes between the parties are resolved. The same is true of all the Early-Stage portfolio companies that do not receive funding.

Funding the needs of Nereid and Nine Square

23. There are two portfolio companies with requirements to preserve asset value for the benefit of the Partnership, where small payments have been made as follows:

	Payments made (US$)
Nereid	250,000
Nine Square	150,000
TOTAL	**400,000**

24. These payments were made to meet severance costs and other payments relating to asset preservation, pending the resolution of the present Court proceedings. Your clients cannot seriously object to the Partnership making funds available to meet such critical expenditure in circumstances where the reason these companies are unable to survive is because of your clients' unreasonable refusal to approve further budgets. Moreover, as your clients are aware, these companies have legally-binding obligations in relation to payroll and taxes, in respect of which the officers and directors of the company may be held personally liable.

ATLS Fee

25. On 4 August 2025, the Partnership discharged US$8,906,044 overdue in respect of the 2H 2025 ATLS Fee.

26. As your client will be aware, the bi-annual fee due to ATLS does not require any fresh budget approval in the same manner as projects relating to portfolio company expenditure. The LPA contains a specific mechanism for the payment of these fees and for the approval of the level of the fee. If the parties are not able to reach agreement on the fee level, the LPA provides that the amount payable shall be the amount last approved by the parties. Your clients defaulted on the capital call that would have covered the ATLS Fee for the second half of 2025. The GP is therefore entitled to utilise the Q32025 Receipts to discharge the ATLS Fee (which, amongst other things, cover the salaries of the GP's employees) and it is certainly holding the ring and in the best interests of the Partnership as a whole that this is paid, to enable the Partnership to continue to function.

Legal Fees

27. The Partnership's legal fees have already been the subject of *inter partes* correspondence. At the outset, we note that the Partnership's transfer of US$20 million into the client account of Quinn Emanuel, does not in itself constitute a disposition of the Partnership's property, as those funds remain beneficially owned by the Partnership. The US$20 million is intended to be available to discharge both Quinn Emanuel's and Walkers' fees in relation to all the current legal proceedings between the parties.

28. In addition to the provisions of paragraph 8(c) of the LPA, as we have previously set out in correspondence, paragraph 11 of Amendment 9 to the LPA dated 22 December 2017 provides that, with the exception of certain defined expenses that are paid from the ATLS Fee, the Partnership shall be responsible for all other reasonable expenses of the Partnership, which Partnership expenses shall be funded by capital contributions made by the holders of Preferred Units in accordance with the LPA, including without limitation professional fees, including legal expenses for the Partnership (including the Partnership's in-house counsel), and all expenses relating to any actual or threatened litigation or proceedings involving the Partnership. As a result, the legal fees that the GP has incurred on behalf of the Partnership fall to be paid by the Partnership. In circumstances where your clients have refused to meet any further capital calls, it is plain that paragraph 8(c) can and should be read so as to cover those legal expenses that would otherwise be met from capital calls.

29. With regard to the funding of the Delaware Proceedings, the Partnership needs, and is entitled to access Partnership funds in order to prosecute genuine and *bona fide* litigation in Delaware, in circumstances where that is necessary to resolve the disputes between the parties.

30. We note you have previously sought to rely on paragraph 15(c) of the LPA to argue that the GP is not entitled to utilise Partnership funds to discharge its legal costs in respect of the Cayman Proceedings, however, this is a misreading of the provision. The paragraph provides that:

> *"The Partnership may pay the expenses incurred by an Indemnified Party in defending any action, suit or proceeding in advance of the final disposition thereof, upon receipt of a written undertaking by such Indemnified Party to repay such payment if he shall be determined not to be entitled to indemnification therefor as provided herein; provided that no such advance payment by the Partnership to an Indemnified Party shall be made with respect to expenses incurred as a result of any action, suit or proceeding initiated against such Indemnified Party by the holders of a majority of the Preferred Units."*

31. The provision is only applicable to legal expenses incurred by an Indemnified Party defending any action taken against that Indemnified Party and, similarly in respect of the carve out at the end of the paragraph, where proceedings are "*initiated against such Indemnified Party*." It therefore has no application to legal expenses incurred by the Partnership.

32. The Cayman Writ Action has been initiated against the ATP III GP Ltd (in its capacity as general partner of ATP Life Science Ventures, LP). It is clear that paragraph 15(c) does not apply to the Cayman Writ Action.

33. With regard to the Winding Up Petition, whilst we note there is an unresolved dispute between the parties as to the correct respondent to the Winding Up Petition we note:

    (a) the Court has not directed that the GP be added as a respondent. Any legal costs are necessarily being incurred by the Partnership as the subject of a winding up petition presented against it; and

    (b) for reasons that we have already aired in correspondence and in the Partnership's skeleton argument for the 1 August 2025 hearing, your contention that the Winding Up Petition should proceed as an *inter partes* proceeding between your clients and the GP in its own right, has no proper basis in law.

34. Furthermore, paragraph 18(g)(iv) of the LPA provides that:

> *"In determining what action, if any, shall be taken against a Limited Partner in connection with such Limited Partner's breach of this Agreement, the General Partner shall seek to obtain a favorable result (as determined by the General Partner in its sole discretion) for the Partnership and the other Partners, and the General Partner, in its sole discretion, may take different actions with respect to multiple Limited Partners that breach the same provisions. To the fullest extent permitted by law, each Limited Partner hereby specifically agrees that, in the event such Limited Partner violates the terms of this Agreement, such Limited Partner shall not be entitled to claim that the Partnership or any of the other Partners are precluded, on the basis of any fiduciary or other duty arising in respect of such Limited Partner's status as such, from seeking any of the remedies permitted under this Agreement or applicable law."* (emphasis added)

35. The terms of the LPA are therefore clear. Where a limited partner has breached the LPA (which, for the reasons set out in the Delaware Complaint, your clients have) the GP may take such action as it considers necessary in its sole discretion and that action is taken *"for the*

Partnership and the other Partners." This would naturally extend to defending a winding up petition brought by a limited partner with the goal of avoiding the consequences of its breaches under the LPA and as a blatant retaliatory move for the filing of the Delaware Complaint.

36. In any event, paragraph 15(c) cannot sensibly be read so to leave a GP acting on behalf of the Partnership, completely powerless to protect the Partnership against an attack by your clients even where that attack was improper and meritless. That would be to allow your clients to win any litigation by default simply by bringing it.

37. In the circumstances, our client is entitled to draw on Partnership funds to discharge the legal expenses it incurs acting in its capacity as GP of the Partnership. We would also stress that the level of the legal fees has escalated entirely due to your clients' actions in bringing two sets of parallel proceedings in the Cayman Islands. These costs continue to be exacerbated by correspondence such as this, where our client is forced to explain ordinary course of business actions. Your clients well know these activities are ordinary course, but, for strategic reasons, seek to portray them as improper. As the Chancellor of the Delaware Court noted in the Motion to Stay hearing on 27 June 2025, the Cayman Islands filings were reactionary in nature and she declined to grant a stay, as to do so would credit your clients for "*their forum selection maneuvers*". The same principle applies to the legal expenses now being incurred on behalf of the Partnership. Your clients chose to bring duplicative and unwarranted legal proceedings in the Cayman Islands despite the existence of the Delaware proceedings, and cannot now complain of the costs that are being incurred as a result of that decision.

38. You will also note that there was a payment of US$250,000 to Wilson Sonsini Goodrich Rosati on 22 August 2025. This payment was made on behalf of Initial Therapeutics ($77,000), Marlinspike ($100,000) and Nereid ($73,000).

Validation of transactions

39. As we set out in our letter of 10 July 2025, our client is cognisant of the provisions of section 99 of the Companies Act (2025 Revision). As you will be aware, section 99 does not operate to prevent companies or partnerships from operating in the ordinary course of business where there is an extant winding up petition. The Cayman Islands Courts have also made it clear that it is entirely possible for a retrospective application for validation of a transaction to be brought.

40. In a recent judgment of Asif J, he noted that, *"there is no difference in the principles to be applied where validation is sought retrospectively, but it should be possible for the evidence presented to the court in support of the application for retrospective validation more directly to address the impact of the transaction on the statutory requirement under s.99 of maintaining the status quo."*[4]

41. Asif J further noted that such transactions may even be adopted by a liquidator even if a winding up order is ultimately made:

[4] *AllFunds Bank S.A. v Rasmala Trade Finance Fund* (unreported Judgment 20 March 2025) at [17]

> *"In my judgment, it is important to bear in mind that where a winding up petition has been presented against a company, whether or not a validation order is sought or granted does not of itself prevent the company from continuing to carry out its normal business and does not prevent its directors from causing the company to enter into appropriate transactions. It simply has the result that such transactions may be susceptible to avoidance by the liquidator if a winding up order is made in due course. In fact, it is not uncommon for a liquidator in such a situation to adopt transactions that are bona fide and are not prejudicial to the company and the persons interested in the liquidation."*[5]

42. The transactions set out above clearly lie within the boundaries of transactions that it would be highly appropriate for the Court to validate, if an application for validation were made. They are exactly of the nature that "holds the ring" to ensure the survival of the Partnership and/or its assets until determination of the Winding Up Petition, although that is without prejudice to our client's position that truly "holding the ring" would involve the Partnership continuing to invest in the portfolio companies in line with the express stated purpose in the LPA. Our client is therefore confident that were a validation application made (whether retrospectively or prospectively) in respect of any of the transactions or payments outlined above, such transactions would be validated by the Cayman Islands Court. However, our client does not consider it necessary to trouble the Court with an urgent application for prospective validation in relation to transactions that are entirely ordinary course, in circumstances where it is clear from the Cayman Islands jurisprudence that a retrospective application is entirely possible (and in some cases preferable).

43. Our client will therefore make an application to Court seeking the validation of the above transactions if and when it considers it appropriate to do so.

Investment Deals

44. Finally, we address the Investment Deals referred to in your letter. We have already set out above why your clients are unjustified in using the Investment Deals as supposed evidence of our client withholding information improperly. In any event, your clients have now received the relevant transaction documents via our client's US lawyers, Quinn Emmanuel.

45. As Quinn Emmanuel set out in their email accompanying the disclosure of the transaction documents, the Q2 2025 Quarterly Report (the "**Q2 Report**") sent to your clients on 4 September provided such information as was appropriate in relation to the Investment Deals, as at the end of Q2 2025. It is therefore simply not the case that the GP is not meeting its reporting obligations. The Investment Deals all concluded in Q3 and would have been included in the Q3 2025 Quarterly Report.

46. By way of further information in respect of the Investment Deals:

    (a) Replicate: the Q2 Report refers to Replicate "*advancing discussions for three strategic partnerships*" including, *inter alia*, Novo Nordisk. As you are aware, this deal (a

[5] *Ibid* at [54]

Collaboration and Licence Agreement) closed on 26 August 2025. Whilst the overall deal figure is US$550 million, the upfront payment that Replicate will receive is an extremely modest US$6,500,000, with other payments either made by Novo Nordisk in the negotiated deal to fund its own project at Replicate or subject to milestones to be achieved in the collaboration. Furthermore, the Novo Nordisk deal relates to a particular preclinical collaboration. This is plainly not a case of a wholesale satisfaction of all of Replicate's funding needs.

(b) Aulos: the Q2 Report states that *"[o]wing to budget approval disputes arising in the Litigation, the company structured an interim financing round led by the family office of its CEO, an experienced oncology pharmaceutical and biotech executive. ATP did not participate*". The financing that concluded in August 2025 was not a Series B financing (in respect of which Dr Ehlers was mistaken) but a convertible note financing and was for only US$9,427,432.33.

The Partnership did not participate in this financing, given your clients' refusal to even discuss new budgets that would have allowed them to do so. To put this refusal into context, Aulos is a clinical-stage company that is currently trialling a drug for the treatment of deadly cancer that is showing promise in patients for whom other treatments have failed. The August 2025 financing was to ensure the continuation of the current phase 2 clinical trial. The total funding needs to conclude the trial are around US$20 million. It will be apparent that the funding actually raised falls far short of what is required and the company will run out of funding by year end. The provision of emergency funding from its CEO is not how a biotech company, much less a clinical-stage company, operates and has caused serious reputational damage to the Partnership as the investor that should be providing these funds.

The Partnership's lack of participation in the latest financing not only excludes the Partnership from a potentially lucrative business opportunity but has grave consequences for the lives of the patients relying on the clinical trial continuing.

(c) Ascidian: the Q2 Report refers to *"[c]ollaboration discussions"* with Eli Lilly. Our client wishes to make clear that it is far from certain that the transaction between Ascidian and Eli Lilly will close and when. This was acknowledged by Dr Ehlers' in his deposition: *"Never underestimate how slowly big pharma can move. But they've been -- I've -- it could be as early as October that it closes. That would be frigging land speed record for big pharma, but they like us, we like them…So as early as October, and certainly, I hope no later than January."* The deal would not close until Q4 2025 at the earliest, if it closes at all. Your clients will be aware of the deal between Ascidian and Astellas last year, which fell through at the very last minute (i.e. after signature pages were prepared for execution documents), indicative of the precarious nature of the Eli Lilly deal at term sheet stage,

The disclosure of the Ascidian/Eli Lilly term sheet deck to your clients at this juncture is without prejudice to our client's position that such disclosure is premature and outside the scope of what your clients would be entitled to, even pursuant to section 22 ELP Act or paragraph 16(b) or (c) of the LPA. However, the document has been provided to put to

bed the meritless allegation of our client being obstructive with regard to the provision of information.

(d) Galvanize: the Q2 Report refers to "*term sheet discussions regarding a Series C financing in the amount of $100 million to be led by Sofinnova Partners, with what was emerging as an oversubscribed book of major institutional investors.*" The Partnership's participation in this transaction was limited to the conversion of an old promissory note into stock and did not involve the Partnership providing any additional funds. The purpose of the financing is for Galvanize's ongoing operations.

47. It is unclear from your letter whether your clients contend there is something improper in the Investment Deals themselves. However, it should be apparent that there would be no credible basis for such a contention. The Investment Deals are, largely, transactions between portfolio companies and third parties. They represent steps taken by the portfolio companies in the face of being starved of funding from the Partnership. They are in no respects an adequate substitute for the proper financing by the Partnership.

48. We trust the information in this letter will bring an end to this particularly unproductive line of correspondence.

Yours faithfully

Walkers (Cayman) LLP

WALKERS (CAYMAN) LLP

SCHEDULE OF PAYMENTS

DATE	AMOUNT	PAYMENT DETAILS	NOTES
31/07/2025	$20,025,952.54	Incoming wire – Tendyne earnout payment	
01/08/2025	$41,736,871.30	Incoming wire – Braeburn Repayment	
04/08/2025	($20,000,000.00)	Outgoing wire – Quinn Emanual Urquhart Sullivan	
04/08/2025	($8,906,044.00)	Payment of 2H 2025 ATLS Fee	
08/08/2025	$13,528.64	Payment from Tendyne	Return of funds from Tendyne litigation escrow account. In 2020, the Partnership put $335,025 into the litigation account along with other investors to total $500,000. Of that $500,000, c.$20,000 remained at the time of the earnout. Since there are no more earnouts, the remaining funds were distributed pro rata to the investors who contributed to the litigation escrow.
11/08/2025	($2,000,000.00)	Outgoing wire to Aethon Therapeutics	
11/08/2025	($6,000,000.00)	Outgoing wire to Ascidian Therapeutics	
14/08/2025	($120,000.00)	Outgoing wire to Evercrisp Biosciences	
14/08/2025	($150,000.00)	Outgoing wire to Nine Square Therapeutics	
14/08/2025	($250,000.00)	Outgoing wire to Nereid Therapeutics	
14/08/2025	($575,000.00)	Outgoing wire to Initial Therapeutics	Applied against funds held pursuant to prior capital calls (i.e. not settled from Braeburn Repayment or Tendyne Earnout).
21/08/2025	($1,500,000.00)	Outgoing wire to Replicate Biosciences	
22/08/2025	($250,000.00)	Outgoing wire to Wilson Sonsini Goodrich Rosati	
27/08/2025	($130,000.00)	Outgoing wire to Evercrisp Biosciences	
04/09/2025	($42,410.00)	Outgoing wire to Apertor Pharmaceuticals	Applied against funds held pursuant to prior capital calls (i.e. not settled from Braeburn Repayment or Tendyne Earnout).

EXHIBIT K

APPLE TREE PARTNERS IV, L.P. - AMENDMENT NO. 13

AMENDMENT NO. 13 (this "Amendment"), dated February 4, 2019, to the First Amended and Restated Limited Partnership Agreement, as amended (the "Agreement"), of Apple Tree Partners IV, L.P. (the "Partnership"). Capitalized terms not otherwise defined herein shall have the meanings ascribed thereto in the Agreement.

Whereas, pursuant to Paragraph 5(a) of the Agreement, the General Partner may only call capital to invest in new Projects ("New Projects") with the approval of the holders of a majority of the Preferred Units (the "Preferred Majority"); and

Whereas, the Preferred Majority is only willing to approve investments in New Projects under the terms and provisions set forth in this Amendment; and

Whereas, the Preferred Majority is only willing to permit the Partnership to make investments in one or more New Projects (i) pursuant to the economic terms set forth in this Amendment and (ii) if any carried interest with respect to the New Projects is specially allocated to a select group of Limited Partners as set forth in this Amendment;

Now, therefore, for good and valuable consideration, including but not limited to the mutual covenants contained herein, the receipt and sufficiency of which are hereby acknowledged, the undersigned do hereby agree that the Agreement is hereby amended (on behalf of all Partners) pursuant to Paragraph 17 thereof as follows:

(a) Separate Pools. Except as otherwise expressly provided in this Amendment, and to the maximum extent possible, all of the Partnership's assets and liabilities shall be divided into two separate pools. One Pool ("Pool B") shall consist of the assets, liabilities, income, gains, losses and expenses associated with the New Projects (including certain other expenses as set forth in subparagraph (d)) and the other Pool ("Pool A") shall consist of all other assets, liabilities income, gains, losses and expenses of the Partnership. Except as otherwise expressly provided in this Amendment, the intent of the Partners in executing this Amendment is that the assets, liabilities, income, gains, losses and expenses associated with Pool B shall affect only Pool B and the Limited Partners participating therein, and not the Partnership generally, Pool A or the Limited Partners participating in Pool A, and vice versa. Accordingly, separate and distinct records shall be maintained for each Pool, and capital contributions, distributions, income, gains, losses and expenses shall also be accounted for separately on a Pool-by-Pool basis.

(b) Capital Contributions. All capital invested in the New Projects or attributable to expenses or liabilities of the New Projects (or liabilities or expenses otherwise apportioned to Pool B pursuant to subparagraph (d)) shall be called from and contributed by Ezbon and Blue Horizon exclusively and shall be treated as contributed to Pool B. No other Partner shall be required to contribute any capital with respect to the New Projects or Pool B generally.

(c) Profits and Losses. Except as set forth in subparagraph (g), the profits and losses of each

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Pool shall also be calculated on a separate basis. The profits and losses with respect to Pool A shall be allocated exclusively to the Limited Partners participating in Pool A and the profits and losses with respect to Pool B shall be allocated exclusively to the Limited Partners participating in Pool B.

(d) Expenses and Liabilities. Any expenses directly attributable to a particular Pool shall be apportioned to such Pool. Any expenses that are attributable to both Pools shall be apportioned between them in accordance with the relative cost basis of each Pool's remaining assets at the time such apportionment is made. By way of example only, (i) all of the Partnership's legal and accounting expenses attributable to the preparation and negotiation of this Amendment shall be borne solely by Pool B and (ii) from and after the date of this Amendment, the Management Fee and the ATLS Fee shall be allocated between Pool A and Pool B in accordance with the relative cost basis of each Pool's remaining assets at the time such allocation is made.

(e) Distributions Generally. Except as set forth in subparagraph (g), distributions with respect to each Pool shall be calculated and made separately and solely from assets of the applicable Pool.

(f) Pool B Distributions. Subject to subparagraph (g), distributions in respect of Pool B, other than Tax Distributions, shall be made as follows: (i) first, to the Limited Partners, in proportion to their respective capital contributions to Pool B, until they have received aggregate distributions pursuant to this subparagraph (f)(i) equal to their aggregate capital contributions to Pool B; and (ii) thereafter, (A) 85% to the Limited Partners in proportion to their respective capital contributions to Pool B, and (B) 15% to the Limited Partners participating in the carried interest attributable to Pool B in proportion to their respective Pool B Carried Interest Percentages (as defined below); provided, however, that if the General Partner has granted in the aggregate less than a 15% interest to the Limited Partners participating in the Pool B carried interest, then they shall be distributed such lesser percentage pursuant to clause (B) and the balance shall be distributed in accordance with clause (A).

(g) Distribution Override. Notwithstanding any provision of this Amendment or the Agreement to the contrary, except for Tax Distributions, no amounts otherwise distributable in respect of Founder Common Units, Incentive Common Units or Pool B Carried Interest Percentages (collectively, "Carried Interest Distributions") to holders of such Units who participate, directly or indirectly, in both Pool A and Pool B ("Pool A and B Carried Interest Participants") shall be made until the holders of Preferred Units have first been returned all of their capital contributions with respect to both Pool A ***and*** Pool B in the aggregate. In order to protect against an over-distribution to the holders of Preferred Units, once the holders of Preferred Units have received distributions from a Pool in an amount equal to their aggregate capital contributions to such Pool, then any Carried Interest Distributions with respect to such Pool

otherwise distributable to Pool A and B Carried Interest Participants shall be held in the Partnership and distributed to the Pool A and B Carried Interest Participants only if and when the holders of Preferred Units have received from the Partnership (whether from Pool A and/or Pool B) an amount equal to their aggregate capital contributions to the Partnership (with respect to both Pool A ***and*** Pool B). For the avoidance of doubt, if the holders of Preferred Units do not receive aggregate distributions at least equal to their aggregate capital contributions to both Pool A ***and*** Pool B, then any Carried Interest Distributions retained by the Partnership pursuant to this subparagraph (g) shall be distributed upon the liquidation of the Partnership to the holders of Preferred Units until they have received aggregate distributions at least equal to their aggregate capital contributions to both Pool A ***and*** Pool B, and any remaining Carried Interest Distributions retained by the Partnership would then be distributed to the Pool A and B Carried Interest Participants, on a pro-rata basis. In no event shall the aggregate Pool B Carried Interest Percentages be increased without the prior consent of the Preferred Majority, in its sole discretion.

(h) Pool B Carried Interest and Vesting. The Limited Partners participating in the carried interest attributable to Pool B and their respective initial Pool B carried interest percentages ("Pool B Carried Interest Percentages") shall be as set forth in a schedule maintained by the General Partner and provided from time to time by the General Partner to Ezbon, Blue Horizon and Dr. Harrison. Such schedule shall provide that the aggregate Pool B Carried Interest Percentage for Dr. Harrison, Les Pommes and their respective affiliates shall be 5%. Each other Limited Partner participating in the Pool B Carried Interest Percentages shall be granted such Pool B Carried Interest Percentage as may be determined from time to time by the General Partner, with the prior consent of the Preferred Majority; provided that the aggregate Pool B Carried Interest Percentages do not exceed 15% at any time. Each Limited Partner participating in the Pool B carried interest shall vest therein to the extent of 20.00% on December 31, 2019, and an additional 1.67% on the last day of each month thereafter until a maximum of 100.00% of such Limited Partner's Pool B Carried Interest Percentage has vested, so long as such Limited Partner continues to provide services to the Partnership and in accordance with any other conditions set forth in any separate agreement granting such Limited Partner a Pool B Carried Interest Percentage, and, in the case of any Person who was not a Limited Partner prior to the date of this Amendment, also making such Person a Limited Partner of the Partnership. For the avoidance of doubt, the "vesting" provision described in this subparagraph (h) shall be construed as a "divesting" provision, and so long as a Limited Partner with a Pool B Carried Interest Percentage continues to provide services to the Partnership, such Limited Partner shall be entitled to full allocations and distributions with respect to its Pool B Carried Interest Percentage.

(i) Transfer of Investments in New Projects. If a successor to the Partnership ("ATP V") is formed and closed with (i) capital commitments from Ezbon, Blue Horizon or their respective affiliates or designees of at least $300 million on or before December 31, 2019, (ii) Dr. Harrison and Anna Batarina as principal managers, (iii) such other Persons who are

mutually acceptable to Ezbon, Blue Horizon and Dr. Harrison having carried interest therein, and (iv) no investors who are unaffiliated with any of the foregoing, then promptly following such closing, the Partnership shall transfer the investments in the New Projects to ATP V in a tax-free manner for U.S. federal income tax purposes.

(j) Miscellaneous. The headings in this Amendment are for convenience of reference only and shall not limit or otherwise affect the meaning of provisions contained herein. This Amendment shall be governed in accordance with the laws of the Cayman Islands without regard to conflicts of laws principles. This Amendment may be executed in any number of counterparts, each of which shall be deemed an original and all of which taken together shall constitute one and the same instrument.

(k) Effectiveness of Agreement. In all other respects, the Agreement shall continue in full force and effect and shall be unaffected by this Amendment.

IN WITNESS WHEREOF, the undersigned have executed this Amendment as a deed on the day and year first above written.

GENERAL PARTNER:

Executed as a deed by:

ATP III GP, Ltd.

By: _____
Name: Seth L. Harrison
Title: Director

In the presence of:

_____
Witness

LIMITED PARTNERS:

Executed as a deed by:

Ezbon International Limited

By: Andriana Kouppay
Title: On behalf of MCB Ltd Director

In the presence of:

Witness

Executed as a deed by:

Blue Horizon Enterprise Ltd.

By: [illegible]
Title: On behalf of MCRS Ltd Director

In the presence of:

Witness

Executed as a deed by:

Seth L. Harrison

In the presence of:

Witness

Executed as a deed by:

LES POMMES LLC

By:
Title: Manager

In the presence of:

Witness

EXHIBIT L

EFiled: Nov 05 2025 03:17PM EST
Transaction ID 77599988
Case No. 2025-0607-KSJM

IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

ATP III GP, LTD., in its capacity as General Partner of ATP Life Science Ventures, L.P.,	)	
Plaintiff,	)	
v.	)	C.A. No. 2025-0607-KSJM
RIGMORA BIOTECH INVESTOR ONE LP and RIGMORA BIOTECH INVESTOR TWO LP,	)	**REDACTED PUBLIC VERSION EFILED: November 5, 2025**
Defendants.	)	

PLAINTIFF ATP III GP, LTD.'S POST-TRIAL BRIEF

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Dated: October 28, 2025

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PRELIMINARY STATEMENT

The evidence adduced at trial paints a clear picture. ATP and Rigmora entered into a heavily-negotiated limited partnership agreement in 2012 and amended that agreement twenty-two times. In 2020 and 2021, seeing a surge in early-stage biotech investment spurred by the global response to the Covid-19 epidemic, Rigmora increased its capital commitments to the Fund by about $1.4 billion and approved budgets for Series A funding of nine new biotech startups and follow-on funding for several existing portfolio companies. Dmitry Rybolovlev personally approved each of these investments.

That surge was ephemeral. The biotech markets retrenched in 2022 and have yet to fully recover. Simultaneously, the Rybolovlev family trust was being managed inefficiently, cash was short, and the trust often sold low-risk assets to fund its high-risk biotech investments. Then a financial advisor, Yuri Bogdanov described the problem in a detailed memorandum and concluded that the only way for the trust to regain financial footing was to "drastically" reduce its commitments to ATP. When circumstances saw him elevated to CEO status in 2024, Bogdanov resolved to cease new commitments to the portfolio and take steps to avoid its existing commitments to its riskiest preclinical assets. Rigmora used a combination of coercion and deception to achieve these goals without incurring the consequences of a contractual default. Ultimately, however, Rigmora breached both its obligation

to contribute capital in response to ATP's fully-authorized May 30 and June 1 capital calls and its obligation to consider in good faith new budgets for portfolio companies whose existing funding had been fully expended. But a limited partner does not gain license to walk away from a partnership agreement simply because its investment preferences have changed or markets have dropped.

In its defense, Rigmora offers distorted readings of the LPA that disregard the facts as they were available to the parties at the time of execution and as the parties reasonably should have understood them—supplanting Cayman law's objective standard of contract interpretation with a subjective, post hoc reading. Rigmora claims that it has not increased its commitments since it executed Amendment 17 to the LPA in 2020 (stopping at $2.5 billion), and that Amendment 20 merely reorganizes pre-existing commitments. This view is both counterfactual and contrary to the plain text of Amendment 20. The pool structure, the pools' accounting, and the parties' communications at the time of the negotiation and drafting of Amendment 20 all work to confirm that Rigmora was committing new money. This is further evidenced by Rigmora's failure to dispute capital call documents that tallied updated commitment amounts in the wake of Amendment 20. Additionally, contrary to Rigmora's argument, no amendment to the Subscription Agreements was required; indeed, the Subscription Agreements themselves expressly contemplate additional commitments via amendment to the LPA.

The evidence shows that Rigmora's commitments exceed [redacted]; its contributions total approximately $2.3 billion; and, it has not exhausted its commitments. Hence, contributions of capital in response to ATP capital calls against approved budgets are not "voluntary." Rigmora may not impose extracontractual conditions on its contribution of capital, and none of the reasons in Rigmora's May 15 Email justify its refusal to contribute capital.

The evidence shows that Rigmora has manufactured reasons to delay new budget approvals. In the months following the execution of Amendment 22, Rigmora hid behind the pretext of "due diligence" to avoid new budget approvals. In reality, it is clear that no one at Rigmora was even equipped to properly engage in Rigmora's new diligence process, and there is no evidence that any degree of disclosure by ATP would have satisfied Rigmora's demands.

At trial, ATP's Dr. Harrison testified that Bogdanov's May 15 Email stripped away any remaining hope that Dr. Harrison had for legitimate engagement and cooperation. Bogdanov's declaration that Rigmora would not even discuss new budgets for the clinical-stage companies until ATP agreed to liquidate or wind down the seven preclinical companies was the equivalent of extortion. This ultimatum revealed that Rigmora was intent on denying new budgets for illegitimate reasons (*i.e.*, to evade existing funding obligations), never mind ATP's months of work to satisfy Rigmora's information demands.

By May 15, 2025, there was no doubt that Rigmora had been abusing the budget approval process and that its actions violated the contractual duties of good faith, honesty, and rationality that, under Cayman law, impliedly constrain its discretion. Its rejection of all further funding obligations to the preclinical companies and refusal to approve budgets for Aulos, Ascidian, Marengo, and Nine Square constituted breaches of both express and implied duties under the LPA. Faced with near-term "cash-out" dates for all of these companies, ATP was left no choice but to exercise its express authority as GP to protect Fund value. It issued capital calls necessary for continued operations, and then it filed litigation to enforce the Fund's rights. Faced with Rigmora's breaches and the imminent collapse of portfolio companies, ATP not only had the right but the obligation to seek judicial intervention. Rigmora materially breached the LPA when it failed to meet those calls for approved budgets.

Moreover, Rigmora's attack on ATP's standing contravenes the LPA, which expressly authorizes the General Partner to bring actions to enforce the Fund's rights. Protecting the Fund from destruction by a rogue limited partner falls squarely within ATP's authority and fiduciary duties.

The Court should order specific performance to prevent the destruction of the Fund's portfolio companies and the loss of potentially life-saving therapies.

Rigmora remains bound by the agreements it signed, and this Court should hold Rigmora to them.

BACKGROUND

I. Apple Tree Partners Is Established to Promote Scientific Advancement and Generate Long-Term Profit

In 2010, Dr. Seth Harrison, who trained as a surgeon before embarking on a 35-year career as a venture capitalist in the biotechnology field, met Dr. Dmitry Rybolovlev, a Russian-born Cypriot national.[1] They formed Apple Tree Partners IV, L.P., which was later renamed to ATP Life Science Ventures, L.P., a Cayman Islands exempted limited partnership (the "Fund" or "Partnership").[2] The Fund's purpose is investing in and developing biotechnology.[3] On November 1, 2012, the parties entered into the First Amended and Restated Limited Partnership Agreement (the "LPA"), which governs the Fund's operations.[4] The LPA establishes the Fund's core mission: "to invest … in pharmaceutical, medical device and other medically related companies and business projects."[5]

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[1] Tr. (Harrison) 7:22-–9:20; Tr. (Rybolovlev) 349:20–350:23.

[2] PTO ¶ 23.

[3] *Id*.; Tr. (Harrison) 9:24–10:10; Tr. (Rybolovlev) 349:20–351:9; JX-0001 at 3; JX-1574 ¶ 15.

[4] JX-0001; *see also* PTO ¶¶ 24–25.

[5] JX-0002 at 1 (LPA Am. 1 ¶ 1(c)).

ATP III GP, Ltd. ("ATP") serves as the General Partner of the Fund, and Harrison is the manager of ATP.[6] The largest limited partners are Defendants Rigmora Biotech Investor One LP and Rigmora Biotech Investor Two LP, both ultimately owned by Rybolovlev's family trust.[7] The Rigmora entities are successors-in-interest to the original Limited Partners Blue Horizon Enterprise Ltd. and Ezbon International Ltd. (together with both Rigmora entities, "Rigmora").[8]

Prior to Rigmora's breaches at-issue here, the Fund's total value was approximately $6.48 billion.[9] The Fund has distributed approximately $2.4 billion to Rigmora since inception.[10] These substantial returns reflect the significant value created by Harrison's management and demonstrate effectiveness in identifying and nurturing promising biopharmaceutical companies.

II. Rigmora Commits More than [redacted] to the Fund

Over the course of the Fund, Rigmora has agreed to capital commitments totaling [redacted]. These commitments arose through a lengthy negotiation history, beginning with an initial commitment of $1.425 billion alongside the November 2012 LPA and followed by additional commitment amounts carefully

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6 PTO ¶¶ 13, 15.

7 PTO ¶¶ 17–20; *see also* Tr. (Bogdanov) 270:12–271:3, 271:13–15.

8 PTO ¶ 18; *see also* Tr. (Harrison) 11:4–7, 25:10–17.

9 JX-1293 at 24.

10 PTO ¶ 46.

negotiated in connection with amendments to the LPA. These commitments were not aggregated for the use of all portfolio companies but were instead expressly allocated to specific pools, including as most relevant here, Pools ATP V-1, V-2, and V-3. Rigmora agreed that funds were not to be shared across pools.

A. Rigmora's Initial $1.425 Billion Commitment Establishes The Fund (2012)

On November 1, 2012, Rigmora made its initial capital commitment of $1.425 billion, pursuant to Subscription Agreements ("SAs") signed by Blue Horizon for [redacted] and Ezbon for [redacted].[11] The capital contributions set forth in the SAs were specifically made "[s]ubject to the terms and conditions set forth in … the Partnership Agreement," as well as the respective SA.[12] Rigmora also agreed to "make such other capital contributions and payments to the Partnership as provided for in the Partnership Agreement, in the manner and at the times provided in the Partnership Agreement," and to become "bound by the terms of the Partnership Agreement."[13]

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[11] JX-0212 at 19–22 (Blue Horizon SA signature pages); JX-213 at 19–22 (Ezbon SA signature pages); Tr. (Harrison) 25:18–22.

[12] JX-0212 at 3 (Blue Horizon SA ¶ 1); JX-0212 at 3 (Ezbon SA ¶ 1).

[13] JX-0212 at 3 (Blue Horizon SA ¶ 1); JX-0212 at 3 (Ezbon SA ¶ 1).

B. Amendment 13 Creates Investment Pools With Separate Accounting And Commitments (2019)

LPA Amendment 13, dated February 4, 2019, introduced a "pool" structure through which commitments, assets, and contributions would be allocated and tracked across distinct, separate "pools."[14] The aim of the pool concept was to segregate money so that profits on new investments would not leak to former Fund employees.[15] Pools also allowed the parties to increase capital commitments without having to establish new entities, thus avoiding potential know-your-customer ("KYC") roadblocks relating to Rybolovlev.[16]

The initial pool structure established through Amendment 13 involved just two pools: Pool A, which held the existing economics, and Pool B, which held the Fund's new projects.[17] Rigmora was exclusively responsible for funding all capital called in respect to Pool B.[18] Amendment 13 specified that expenses would be allocated exclusively by pool insofar as they were "directly attributable" to a

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[14] JX-0015 at 1 (LPA Am. 13 ¶ 17(a)).

[15] Tr. (Harrison) 27:11–28:9; Finkelman Dep. 38:7–41:18.

[16] Tr. (Harrison) 27:11–28:9.

[17] JX-0015 at 1 (LPA Am. 13 ¶ 17(a)).

[18] JX-0015 at 1 (LPA Am. 13 ¶ 17(b)).

particular pool, while expenses that were attributable to both pools were apportioned between them based on the relative cost basis of the remaining assets in each pool.[19]

Amendment 13 identified the Management Fee and the Apple Tree Life Sciences, Inc. ("ATLS")[20] Fee as two examples of expenses that were attributable to both pools.[21]

To facilitate the distinct treatment of the pools, Amendment 13 provided that "separate and distinct records shall be maintained for each Pool, and capital contributions … shall also be accounted for separately on a Pool-by-Pool basis."[22] The parties maintained this emphasis on segregating the treatment of pools, including a version of this "Pool-by-Pool" language in each amendment that modified the pool structure.

C. In Amendment 17 Rigmora Commits Additional $1 Billion (2020)

Amendment 17, dated September 9, 2020, committed Rigmora to fund an additional $1 billion to be allocated between Pool B and a new Pool C.[23]

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[19] *Id.* at 2 (LPA Am. 13 ¶ 17(d)).

[20] JX-0009 at 3 (LPA Am. 7, Schedule A ¶ 3).

[21] JX-0015 at 2 (LPA Am. 13 ¶ 17(d)). ATLS is a wholly-owned subsidiary of the Partnership designed to cover Partnership operational expenses like facility costs, leases, rents, and employee costs. JX-0009 at 3 (LPA Am. 7, Schedule A ¶ 3); Tr. (Harrison) 17:17–18:4. The ATLS Fee and the Management Fee were allocated between the pools according to fixed percentages. JX-0222 at 9–10 (LPA Am. 20 ¶ 6).

[22] JX-0015 at 1 (LPA Am. 13 ¶ 17(a)).

[23] Tr. (Harrison) 29:1-19; JX-0089 at 1 (LPA Am. 17).

Thereafter, Pool A would consist of Rigmora's original $1.425 billion capital commitment and all economics of the Fund not expressly allocated to Pools B or C, while Pools B and C would split Rigmora's new $1 billion commitment.[24] Amendment 17 further specified that Pool B would contain Chinook Therapeutics U.S., Inc.; Nine Square Therapeutics Corporation; and Initial Therapeutics, Inc., along with a proportionate share of the Management Fee and ATLS Fee.[25] Pool C would contain Kynos Therapeutics Ltd and any new projects after the execution of Amendment 17, along with a proportionate share of the ATLS Fees.[26] Each of these pools would be funded "exclusively" by Rigmora, and "[a]ll capital invested in the Pool C Projects … [would] be treated as contributed to Pool C."[27] Following execution of Amendment 17, the parties executed amended subscription agreements pursuant to which Blue Horizon and Ezbon committed to contributing [redacted] and [redacted], respectively, to Pools B and C.[28]

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[24] JX-0089 at 1–2 (LPA Am. 17 ¶ 4 (new Paragraph 20(a))).

[25] *Id*.

[26] *Id.*

[27] *Id.* at 2 (LPA Am. 17 ¶ 4 (new Paragraph 20(b))).

[28] Tr. (Harrison) 41:11–42:14; JX-0099; JX-0101.

Shortly thereafter, in Amendment 19, dated November 27, 2020, the parties renamed Pools A, B, and C, as Pool ATP IV, Pool ATP V-1, and Pool ATP V-2, respectively.[29]

D. In Amendment 20 Rigmora Commits An Additional $310 Million (2021)

The following year, the parties executed Amendment 20, providing for an additional significant increase in the capital commitments from Rigmora and Harrison.[30]

To set the amendment's financial terms, the parties exchanged an outline confirming their understanding of the commitments that generally would remain or materialize in each pool. In a May 2021 email, Harrison sent a draft outline to Rigmora's then-CEO and CIO Anna Kolonchina. Kolonchina returned a revised draft to Harrison on May 26, 2021, noting that, with the business terms ready, it "make[s] sense to start drafting a long form" amendment.[31]

The outline included a section titled "Remaining Unfunded Capital Commitments," which estimated that each pool would have roughly the following unfunded commitments following execution of Amendment 20: (1) [redacted] for

[29] JX-0132 at 1 (LPA Am. 19 ¶ 1); Tr. (Harrison) 28:22–24.

[30] Tr. (Harrison) 42:15–44:6; JX-1061 at 3.

[31] JX-0195 at 1.

ATP IV; (2) [redacted] for ATP V-1; (3) [redacted] for ATP V-2; (4) [redacted] for a new pool ATP V-3; and (5) [redacted] for a new Pool Braeburn.[32] At the time, there was approximately [redacted] in remaining capital commitments for Pool IV that the parties had agreed to sunset, and Pools V-3 and Pool Braeburn were to be created with independent commitments under Amendment 20.[33] Consistent with this plan, the parties executed Amendment 20 on June 21, 2021, memorializing their agreement to modify the investment in Pool IV to reduce the remaining commitment to expenses related to that pool and to new pools Pool ATP V-3 and Pool Braeburn, with additional new money commitments.

Amendment 20 had several features which, taken together, unambiguously documented the parties' agreement to increase the overall commitments to the Fund.

First, Amendment 20 established Pool Braeburn to hold the assets and commitments to a single portfolio company, Braeburn. For Pool Braeburn, Rigmora principally committed [redacted] in previously budgeted and approved but not yet funded amounts.[34]

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[32] JX-0195 at 4–5.

[33] JX-220 at 28 (showing $1.35 billion contributed prior to Amendment 20); JX-1061 (LPA Am. 20 ¶¶1–2 (new Paragraphs 21–22))

[34] JX-1061 at 3–5 (LPA Am. 20 ¶ 1 (new Paragraph 21)); Tr. (Harrison) 44:14–46:3; Engels Dep. 92:30–95:3.

Second, Amendment 20 established Pool V-3 to hold the assets and commitments for certain existing portfolio companies being operated under new management that the parties believed warranted additional commitments: Ascidian Therapeutics, Inc. ("Ascidian"), Gala Therapeutics Inc. ("Gala"), Galary, Inc. ("Galary"), Galvanize Therapeutics ("Galvanize"), Galaxy Medical, Inc. ("Galaxy"), Intergalactic Therapeutics, Inc. ("Intergalactic"), and Marengo Therapeutics, Inc. ("Marengo"), and their successors.[35] The total new commitment into Pool V-3 memorialized in Amendment 20 consisted of approximately $310.5 million. That $310.5 million in unfunded commitments derived from the parties' agreement to have a total commitment of [redacted] to Pool V-3, reduced by the existing investments into the companies compromising Pool V-3 as of the date of execution of Amendment 20, [redacted].[36] The remaining commitment would consist of [redacted] in previously approved, unfunded budgets for the Pool V-3 companies and approximately [redacted] in additional commitments to those companies.[37] As to Pool V-3, the parties agreed that "Ezbon, Blue Horizon,

[35] JX-1061 at 6–9 (LPA Am. 20 ¶ 2 (new Paragraph 22)).

[36] *Id.*

[37] Tr. (Harrison) 46:5–47:9.

Harrison, and Les Pommes shall contribute [redacted], respectively," to any unfunded remaining budgets.[38]

Finally, for Pool IV, the parties agreed to reduce the remaining unfunded commitments from the initial $1.5 billion to approximately [redacted] to be used to cover expenses, including litigation expenses related to the cost of a then-ongoing portfolio company exit.[39] The actual cost of expenses related to that litigation, and what was ultimately paid into Pool IV after Amendment 20, totaled [redacted].[40]

Immediately following Amendment 20, ATP began calling committed capital from Rigmora and Harrison. On June 24, 2021, ATP transmitted a capital call to Rigmora for approximately [redacted], consisting of [redacted] for Pool Braeburn, [redacted] for Pool V-2, and [redacted] in expenses charged to the pools, all split among Rigmora and Harrison in line with their commitment obligations to the pools.[41]

This call included an exhibit tracker of the outstanding capital commitments before and after: a practice that ATP included in each capital call following Amendment 20 through present day. These exhibits included the amount of funds

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[38] JX-1061 at 6–9 (LPA Am. 20 ¶ 2 (new Paragraph 22)).

[39] JX-1061 at 10 (LPA Am. 20 ¶ 4 (new Paragraph 24)).

[40] Engels Dep. 321:20–322:22.

[41] Tr. (Harrison) 47:10-48:3; JX-0230 at 1–2.

being called from each party on a pool-by-pool basis (including the breakdown of ATLS fees proportionately for each pool), and the amount of unfunded committed capital that would remain following the capital call.[42]

Exhibit A to the June 2021 capital call evidenced a total remaining commitment of [redacted], a sizable increase from the approximately $1 billion in outstanding commitments across the initial $2.5 billion committed to the initial fund and Pools V-1 and V-2, commensurate with the parties' agreement in Amendment 20 to increase the overall commitments to the fund.

ATP provided this record to Rigmora with "every single capital call," and no one at Rigmora (including then-CEO Kolonchina, who received these calls), ever objected to the accounting.[43] Rigmora's CFO Alexey Yakovlev testified to being responsible for processing capital calls, and he admitted to "not [being] aware" of anyone at Rigmora challenging these records.[44]

III. The LPA Defines the Rights, Duties, and Procedures for Capital Calls, Budget Approvals, and Defaults

A. Call, Budget, and Contribution Framework

Paragraph 5(a)(ii), as amended, authorizes the GP to call capital under seven circumstances, including funding partnership expenses, management fees, reserves,

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[42] JX-0230 at 4; Tr. (Harrison) 48:19–50:18.

[43] Tr. (Harrison) 48:19–51:1.

[44] Tr. (Yakovlev) 474:22–476:10.

and investments in "Projects."[45] As relevant here, subsections 5(a)(ii)(A) through (C) provide, "Unless otherwise approved by the holders of a majority of the Preferred Units in writing," the GP:

> may only call capital, as of any time, in amounts sufficient to enable the Partnership … to (A) pay Partnership … expenses then existing or reasonably anticipated to be incurred within the next six-month period, (B) pay other Partnership … non-discretionary items (such as taxes and tax distributions) and satisfy other Partnership … expenses and obligations incurred in the ordinary course of business, [and] (C) pay the Management Fee for the next 12-month period.[46]

Subsection 5(a)(ii)(E) authorizes the GP to call capital in amounts sufficient to "invest in Projects approved by the holders of a majority of the Preferred Units in writing in accordance with a budget therefor approved by such holders of Preferred Units."[47] Rigmora (which holds the majority of Preferred Units) thus has the right to approve budgets for Projects before capital can be called.

The ATLS Fee is also subject to a budget approval process. Rigmora must either approve the ATLS budget proposed annually by the GP or provide reasons for

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[45] *See* JX-4 at 2 (LPA Am. 3). "Projects" are defined as "investments in pharmaceutical, medical device and other medically-related companies, projects and related activities that are made directly by the Partnership or indirectly by it through Intermediaries."

[46] *Id.*

[47] *Id.* Amendment 3 originally provided for an ATC board of directors and made certain distinctions depending on whether a project was "being run through ATC" or not. *Id.* at 1–2. Amendment 14 excised ATC, and with it the ATC board of directors, from the LPA. JX-16 at 5 (LPA Am. 14).

not approving it within ten days.[48] If Rigmora does neither, the ATLS budget is deemed approved in an amount equal to the previous year's ATLS budget minus any extraordinary, non-recurring expenses that may have been included therein.[49] The amount of the separate Management Fee was set at [redacted] by Amendment 14.[50] Rigmora agreed to contribute capital to pay the ATLS Fee semi-annually in advance and the Management Fee annually in advance.[51]

Rigmora is obligated to contribute capital duly called. Paragraph 5(a)(i) requires LPs to contribute capital when requested by the GP in accordance with the LPA.[52] Capital is due when set by the call, with "not less than ten business days' prior written notice." LPA ¶ 5(a)(iii).[53]

B. The Global Default Protects The Fund's Integrity

Because, by design, Rigmora is the chief funding source for the Fund, and the Fund is, in turn, often the only source of funding for its portfolio companies, the consequences to those companies of Rigmora breaching its obligations to contribute

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48 JX-22 at 9–10 (LPA Am. 20 ¶ 6).

49 *Id.*

50 JX-0016 at 1 (LPA Am. 14 ¶ 1).

51 JX-0222 at 9–10 (LPA Am. 20 ¶ 6).

52 JX-1 at 18 (LPA ¶ 5(a)(i)).

53 *Id.* at 19–20.

capital are existential.[54] A funding default could trigger talent loss, delayed or abandoned R&D, difficulties restarting halted or delayed trials, difficulty attracting future investments or partners, and negative perception of the company and the Fund.[55] To ensure funding, the LPA provides for a range of potential consequences if an LP fails to meet a capital call, including imposing a Default Charge of up to 50% of the LP's interest for each default.[56] Such remedies are typical in almost all venture capital fund agreements, but, as Harrison testified, they are especially important for this venture, given that it relies on essentially single-source funding.[57] Harrison discussed the import of such a provision with Rybolovlev when establishing the Fund, noting that "[i]t would be highly unlikely that [they] would be able to even start business unless [they] had such a remedy" in the LPA.[58]

Specifically, five days after a missed capital call, the GP may issue a Default Notice (as defined in the LPA) informing the LP of its failure to pay and notifying it that it will be considered a "Defaulting Partner" if payment is not received within

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[54] *E.g.*, Tr. (Harrison) 20:8–21:1, 60:19–61:10.

[55] JX-1572 (Rao Opening) ¶ 67.

[56] JX-0001 at 23–27; *see also* Tr. (Harrison) 19:6–14, 21:2–6, 22:5–18.

[57] Tr. (Harrison) 20:8–21:1; *see also* Finkelman Dep. 61:13–64:17 (global default mechanism is typical, and Harrison had insisted upon it when parties first executed LPA).

[58] Tr. (Harrison) 20:8–21:1; *see also* Finkelman Dep. 61:13–64:17 ("The concept of a default charge was the single most contentious point in the negotiation …of the [LPA]. … [I]t looked at times as if … the parties were going to go their separate ways without reaching an agreement because of their disagreement on that.").

thirty days.[59] Once an LP becomes a Defaulting Partner, the GP may pursue one of multiple remedies in its sole discretion, including a Default Charge in an amount up to "50% of such Defaulting Partner's corresponding number of Units … immediately prior to becoming a Defaulting Partner."[60]

Further, "[i]n connection with the application of the Default Charge, the General Partner may make such adjustments to the manner in which Capital Accounts are determined and distributions are made … as the General Partner reasonably determines are necessary or appropriate in order to reflect the application and the intention of the Default Charge."[61]

In addition to imposing a Default Charge, the GP may pursue the Fund's other rights and remedies against the Defaulting Partner under the LPA, the SAs, and governing law, including bringing a lawsuit to collect the unpaid capital contribution, together with interest, costs, and damages.[62]

The Defaulting Partner also remains obligated to pay both the unpaid capital call that led to the Default Charge and subsequent capital calls when due.[63]

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[59] JX-0001 at 23–27 (LPA ¶ 5(c)).

[60] *Id.* at 25.

[61] JX-0001 at 25 (LPA) ¶ 5(c).

[62] *Id.* at 24, ¶ 5(c)(iv); *see also* Finkelman Dep. 68:11–71:10 (testifying that Cayman law does not recognize the concept of a "series" partnership).

[63] *Id*. at 25.

Finally, the LPA provides that a Defaulting Partner loses "voting, consent, approval … and other such rights."[64]

The parties' various amendments to the LPA did not alter these default provisions.[65] Likewise, when ATP and Rigmora contemplated executing a Second Amended and Restated LPA to streamline the incorporation of amendments up through that point, Rigmora's attempt to weaken the default provision was a primary reason a second restated LPA was never executed.[66]

IV. For Years, the Partners Cooperated on Budget Approvals

Until late 2024, the process by which Rigmora exercised its budget approval rights typically began with informal discussions among Rigmora's chief investment officer (which role has been transferred over time), Harrison, and Rybolovlev.[67] For each new Series A investment, Harrison and Rybolovlev met—often in person—to discuss the opportunity, its prospects for commercial and scientific success, and

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[64] *Id*. at 74, ¶ 18(f).

[65] Tr. (Harrison) 57:8–10; Blöchlinger Dep 109:16–120:14 (Rigmora's GC acknowledging that none of the LPA amendments apply to default provisions); Finkelman Dep. 65:24–66:13 ("none of the amendments touched paragraph 5-C of the [LPA]").

[66] Finkelman Dep. 61:13–64:17 (Rigmora and ATP "disagreed substantively" on modification of global default provision); Blöchlinger Dep. 126:3–7, 129:18–130:8 (Rigmora's GC acknowledges that draft of Second Amended and Restated LPA did not include a pool-by-pool default mechanism); JX-0325 at 18 (Rigmora attempts to remove global default charge from draft amended LPA).

[67] Tr. (Harrison) 14:14–21.

funding needs.[68] Once Rybolovlev informally approved the investment, ATP would prepare an investment memorandum, CFIUS memorandum,[69] and a request for formal budget approval.[70]

After formal budget approval, the Fund would enter into Series A stock purchase agreements ("SPAs") with the relevant portfolio companies.[71] In many cases, the deployment of capital to the portfolio companies was tied to milestone-based tranches, but the Fund retained discretion to disburse capital regardless of milestone progress, as is typical for SPAs in the venture industry.[72] Indeed, the Fund retained the right to invest the entirety of the Series A capital commitment at any time, in whole or in part.[73]

Most of the Fund's portfolio companies exclusively rely on funding from the Fund to meet their operating needs, and thus the Series A commitments were key to recruiting top scientists and staff.[74] This arrangement stemmed from Rybolovlev's

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[68] Tr. (Harrison) 31:15–32:4, 33:5–10; Tr. (Rybolovlev) 355:4–12.

[69] Each budget request was accompanied by an analysis of the need for a CFIUS review; counsel typically concluded that because these were greenfield businesses they were outside the purview of CFIUS. *See* JX-310 at 6–7.

[70] Tr. (Harrison) at 31:15–33:4; Tr. (Rybolovlev) 355:9–18.

[71] Tr. (Harrison) at 34:19–35:2

[72] *See, e.g.*, JX-248 at 11–13, § 1.2(a)–(i); *see also* Tr. (Harrison) at 35:3–36:8.

[73] JX-123 at 6, § 1.2(f).

[74] JX-1174 at 2.

insistence on the Fund's ownership and control, but, eventually, the Fund was unable to syndicate its deals owing to KYC issues arising from post-Ukraine perceptions of Russian nationals.[75]

V. Bogdanov Champions Strategic Shift From Biotech Ventures

In fall of 2022, Bogdanov, who was then an analyst working on financial risk management, observed that Rigmora lacked cash-generating assets and had little cash on the balance sheet.[76] Though not in charge, Bogdanov formulated his vision for Rigmora in a series of internal memoranda characterizing Rigmora's finances as a "situation of a liquidity crisis" with a "lack of cash flow stability" that could only be remedied with a change in investment strategy.[77] In his memoranda, Bogdanov observed that "two or three years earlier" a crisis with similar characteristics had been "resolved by liquidating the private equity portfolio."[78] He warned that Rigmora's structure, with "predominance of venture projects (biotech [and] gaming) carries same risks that had led to the current crisis: poorly predictable [] money inflows (divestments) [and] massive outflows (capital calls), which will grow exponentially if the divestments are delayed."[79]

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[75] Tr. (Harrison) 12:17–13:8;105:17–107:18.

[76] JX-440 at 2.

[77] *Id.*; *see* Tr. (Bogdanov) 318:2–321:23.

[78] JX-446 at 1.

[79] *Id.*; Tr. (Bogdanov) 320:11–18.

Bogdanov's solution was singular: "The current cash gap can be closed by drastic reduction in venture investment (and particularly biotech) and divestiture."[80] Otherwise, Rigmora would remain trapped in "the same logic of shifting money from less risk (Private Equity Funds, real estate, boat) to more risky assets with 'fire extinguishing' from time to time" to resolve periodic emergency cash shortages.[81] Bogdanov confirmed at trial, as other notes in the memoranda corroborate, that "biotech ventures" referred to the Fund.[82]

According to Bogdanov, Rigmora would "most importantly," re-encounter emergency cash shortages due to "***guaranteed obligations*** on … biotech venture projects."[83] Although the Fund could be "a source of capital gains," it could not "serve as a reliable source of cash for funding [Rigmora's] regular needs."[84] But if Rigmora were to exit its biotech investments, it would gain a "buffer" of $300–400 million—enough to mitigate the current liquidity crisis and achieve a "stable

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[80] JX-463 at 2; Tr. (Bogdanov) 320:3–7.

[81] JX-463 at 2; Tr. (Bogdanov) 320:19–24.

[82] Tr. (Bogdanov) 320:8–10.

[83] JX-440 at 2 (emphasis added). This email was sent by Bogdanov's associate, but Bogdanov testified that he is "the author." Bogdanov Dep. 162:5–10.

[84] JX-440 at 2.

position" longer-term.[85] Thus, the way "to start moving towards the cash buffer" was ***"to drastically reduce ATP payments."***[86]

Bogdanov believed that Rigmora could achieve "drastic" payment reductions through "tight controls," including "clear rules for review and approval of new projects."[87] His prescription was stark and his goal unambiguous: "[N]o funding sources – no new projects."[88] The "priority" was to "put a 'plug' on expenses" rather than find new investors.[89]

In December 2024, when Kolonchina made the "unexpected decision" to depart Rigmora, Bogdanov became CIO and co-CEO.[90] Bogdanov had no prior involvement in the Fund's company budgets, nor any meaningful recent exposure to biotech.[91] Indeed, Rybolovlev observed that Bogdanov had "certain occupational deformities" because his "background is auditing and his perspective hasn't changed," making him "very, very, conservative."[92] Nonetheless, though Rybolovlev admitted that he does not "know any auditor who would be successful

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[85] JX-446 at 1.

[86] JX 462 at 2 (emphasis added); Bogdanov Dep. 174:14–21.

[87] JX-462 at 2; Bogdanov Dep. 173:16–22.

[88] JX-462 at 2.

[89] Tr. (Bogdanov) 321:14–18.

[90] Rybolovlev Dep. 51:19–52:8; Tr. (Bogdanov) 271:24–272:7.

[91] Tr. (Bogdanov) 272:8–24; 317:11–13.

[92] Rybolovlev Dep. 50:17–51:3.

in running a business," Bogdanov was elevated because he had "a general understanding of what's going on."[93] But, as Bogdanov told the Court, he received no "specific instructions" from anyone at Rigmora, including Kolonchina, concerning how to proceed as Rigmora's top executive.[94] Bogdanov quickly began to implement a shift towards his planned thesis of reducing long-term investments and building a cash buffer.

Bogdanov's planned shift was not communicated directly to Harrison or ATP. However, starting in late September 2022, Rigmora (through Rybolovlev and Kolonchina) did plead for an "austerity budget" for the Fund, on the basis of liquidity concerns following Russia's invasion of Ukraine.[95] As Harrison documented in a memorandum to Kolonchina, Rybolovlev expressed to Harrison that he was regretting current commitments and concerned about cashflow.[96] In response, ATP worked to accommodate Rigmora's professed liquidity concerns by "calling capital at a lower rate" and asking the portfolio companies to "make do with less," "slow the companies down or drop some programs."[97]

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[93] *Id.* at 51:5–52:4.

[94] Tr. (Bogdanov) 342:20–343:3.

[95] JX-473 at 2. Tr. (Harrison) 52:1–12; 54:20–55:1; *see* Tr. (Bogdanov) 318:2–6 (acknowledging liquidity crisis in 2022).

[96] JX-473 at 2; Tr. (Harrison) 52:1–19.

[97] Tr. (Harrison) 57:19–58:9.

ATP did not, however, simply forgive Rigmora's "guaranteed obligations."

VI. Amendment 22 Requires Rigmora to Consider New Budgets Following Braeburn Settlement

A. Braeburn Dispute and Resolution

In 2023, the FDA approved Braeburn's drug Brixadi, transforming Braeburn into a commercial-stage company with multi-billion dollar potential.[98] Rigmora demanded immediate distribution of Braeburn's shares.[99] ATP refused the demand on fiduciary and other grounds, citing concerns about the Fund's solvency and Rigmora's potential default on commitments to fund Pool V-1 and V-2.[100]

By late 2023, Rigmora conditioned its agreement to meet key funding obligations on ATP's agreement to cap the Fund's capital calls and shift approved budgeted amounts away from preclinical startups in Pools ATP V-1 and V-2 in favor of older, clinical-stage companies.[101]

In July 2024, Rigmora renewed its demand for immediate distribution of the assets in Pool Braeburn (then independently valued at up to [redacted]).[102] When ATP requested time to consider the implications of such a distribution on the Fund,

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98 PTO ¶ 49.

99 PTO ¶ 51.

100 PTO ¶ 52.

101 *See* JX-698 at 4–5.

102 Tr. (Harrison) 67:9–68:14; JX PTO ¶ 53.

Rigmora immediately commenced legal proceedings in the Cayman Islands to compel the distribution.[103]

In this 2024 Cayman lawsuit (the "Cayman Action"), Rigmora debuted its prime defense here: exhaustion of capital commitments. On October 10, 2024, Kolonchina filed an affidavit in the Cayman court stating, for the first time, that Rigmora's "combined Contingent Subscriptions are [redacted]," and because Rigmora had already funded $2.6 billion to date, "it is therefore impossible" that Rigmora had outstanding contingent subscriptions.[104] Kolonchina further attested that there was no "global default mechanism" in the LPA.[105] That same day, Kolonchina stated in an email to ATP that Rigmora would pay a pending capital call despite that it was "not obligated to do so."[106] By October 2024, Rigmora was explicitly disclaiming any obligation to respond to capital calls for budgets already expressly approved in writing, insisting any payments would be made only "on a voluntary basis."[107]

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103 PTO ¶ 54; Ans. ¶ 98, 100.

104 JX-1002 ¶¶ 23–26.

105 JX-1002 ¶ 27–29.

106 JX-998 at 1.

107 *Id*.

Rather than assert counterclaims or run to Delaware court, Harrison flew to Monaco and suggested to Rybolovlev that they settle, leading to a "couple of days of meetings" where they "agreed to the basic outline of a settlement in order to continue to work together."[108]

ATP and Rigmora settled the Cayman Action on December 20, 2024, agreeing to Amendment 22 and an amended agreement regarding Pool Braeburn.[109] Rigmora obtained distribution of the Braeburn royalty, valued on date of distribution at [redacted]. The transaction transferred the Braeburn royalty from Pool Braeburn to a special-purpose entity known as ATC LLP, and thus the royalty was no longer subject to the Global Default Charge.

During the Cayman Action, certain portfolio companies were nearing the end of their Series A commitments and initial budgets, making new budgets a critical part of settlement discussions.[110] Ascidian, in particular, would reach the middle of its Stargardt disease trial and run out of funding to conclude it properly with a pediatric cohort.[111]

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[108] Tr. (Harrison) 68:24–69:4.

[109] *See* JX-1068 at 4 (LPA Am. 22 ¶ 26); Tr. (Bogdanov) 275:6-21.

[110] Tr. (Harrison) 72:6–19.

[111] *Id.* 72:20–73:10.

B. Amendment 22

Amendment 22 to the LPA was executed concurrently with the settlement.[112] Bogdanov, who took over Kolonchina's position as Co-CEO in October 2024, was a primary negotiator for Amendment 22.[113]

A key concern in settlement was continued funding for specific companies. In return for the transfer of the Braeburn royalty, Rigmora agreed in Amendment 22:

> From and after the date of [Amendment 22], the General Partner and [Rigmora] shall discuss new budgets for the Partnership in accordance with the process set forth in this Agreement to allow it to invest in Ascidian Therapeutics, Inc., Aulos Bioscience, Inc., Nereid Bioscience, Incorporated, Nine Square Therapeutics Corporation and Replicate Bioscience, Inc. sufficient amounts to enable each of them to operate for a period of twelve months after the remaining unfunded amounts, if any, under their respective existing approved budgets are expected to have been fully utilized …[114]

Paragraph 26 lists projected cash-out dates for each company: [redacted] When asked if it was "clear to the Family Office and Dr. Rybolovlev that these companies were running out of cash in the near term" Harrison testified that "it wasn't news" to Rigmora.[115] Moving

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[112] JX-1068 (LPA Am 22); Tr. (Harrison) 79:10–12.

[113] Tr. (Bogdanov) 271:24–272:7; *id.* 275:2–5.

[114] JX-1068 at 4 (LPA Am. 22 ¶ 26).

[115] Tr. (Harrison) 75:1–8.

forward, as Rybolovlev knew, Harrison planned to consider reorganizing the companies; in the meantime, Amendment 22 would allow "holding budgets" so the companies could continue operating for a 12-month period.[116]

Paragraph 26 also created a contingency, applicable once Rigmora approves a budget. "If any approval of a new budget is given by" Rigmora, "such approval shall be contingent upon at least $300 million being realized (including through deemed distributions) by [Rigmora] on a sale or financing of its interest in ATP LLC," referred to as a "Royalty Financing."[117] The Royalty Financing term was not at odds with the expectation that the companies needed new budgets relatively soon; Harrison expected the partners would "collaborate" on pursuing the Royalty Financing, which Rigmora indicated would not be difficult to obtain.[118]

These expectations were consistent with the terms of Amendment 22, which mandates that in pursuing the financing, as well as approving budget proposals, each party would "do and perform, or cause to be done and performed, all such further acts and things … as any other party may reasonably request in order to carry out the intent and accomplish the purposes of this Amendment and the consummation

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[116] Tr. (Harrison) 76:3–11.

[117] JX-1068 at 3 (LPA Am. 22 ¶ 21(f)); *id.* at 4 (LPA Am. 22 ¶ 26).

[118] Tr. (Harrison) 77:24–78:3.

of the transactions contemplated hereby."[119] Despite this obligation and the initial anticipation that Royalty Financing would be promptly achieved, Rigmora has not closed a financing agreement ten months later.[120]

VII. Bogdanov Ascends to Power and a Pattern of Obstruction Persists

ATP, unaware of Rigmora's goal of "no funding … no new projects" and concerned about funding for companies running out of cash, wasted little time after executing Amendment 22 before sending Rigmora proposed budgets.[121] On December 24, 2024, Harrison sent an email containing budget requests for[122]:

- **Auolos**, [redacted]";
- **Replicate**, for "$11M"; and
- **Nine Square**, "[redacted]."

Harrison also explained that he was attaching materials concerning budgets for:

- **Nereid**, [redacted]
- **Ascidian**, [redacted]

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119 JX-1068 at 5 (LPA Am. 22 ¶ Miscellaneous).

120 *See* PTO ¶ 38.

121 *See* JX-463 at 2; JX-1079 at 1; Tr. (Harrison) 79:10–80:5.

122 JX-1079.

Harrison provided a spreadsheet showing "[redacted]," plus access to data rooms with "supporting materials for the new budgets."[123] These measures went above and beyond past expectations; Harrison testified that he "doubted very highly whether [Rigmora] would review" the data, but "[w]e did it to make sure [Rigmora] understood that after the settlement agreement we were being radically transparent."[124]

Bogdanov forwarded Harrison's email to Rigmora's analyst, Zufar Iskhakov, exclaiming "Let's start. Merry Christmas!"[125] Bogdanov admitted in deposition that he did not mean "let's start approving budgets."[126] Now Rigmora's CIO and Co-CEO,[127] he was ready to execute his vision for Rigmora's balance sheet; he meant "let's start" imposing "tight controls."

A. Obstructionist Diligence Begins Immediately

Tight controls were first applied to Replicate. Bogdanov testified that upon receiving Harrison's December 24 email warning that Replicate would "run out of cash by the third week of January," Rigmora "set Replicate budget as our priority

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123 JX-1079 at 1.

124 Tr. (Harrison) 128:6–9.

125 JX-1079 at 1.

126 Bogdanov Dep. 228:13–15.

127 *Id.* 27:4–5.

and worked for the holidays."[128] But this "work" consisted of generating what Bogdanov described as "the list of the full-out diligence questions."[129]

On January 5, 2025, Bogdanov sent Harrison a list of 19 diligence questions for Replicate.[130] The list was "bizarre," in Harrison's words, since "this is a company that we founded I think in 2021 and on which we'd reported extensively, were the sole owner, and we had many, many, many conversations about with Dmitry."[131] Harrison noted that "typically when you know a deal and you're just funding specific programs that you know and you understand the technology and you understand management and everything, providing an additional relatively small amount of capital shouldn't require much diligence at all."[132]

Thus, Rigmora's 19 diligence requests disregarded known, long-discussed background concerning Replicate's pivot "from oncology to a rabies vaccine over the course of the fund's investment."[133] The requests were also open-ended, seeking, for example, narratives explaining whether Replicate had "lost its differentiation,"

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128 Tr. (Bogdanov) 291:11–16.

129 *Id.* 291:17–20.

130 JX-1107 at 3–6.

131 Tr. (Harrison) 82:22–83:3.

132 Tr. (Harrison) 83:4–9.

133 *Id.* 128:12–18; JX-1107. Bogdanov asked: "After four years, could you please outline the main reasons for shifting RBI-4000 and RBI-5000 from oncology to infectious disease indications?" Tr. (Harrison) 128:19–129:24.

and how its "technology evolved over the past four years compared to its main peers."[134] The requests were patently difficult to fulfill. When confronted on cross-examination about whether he even knew if his diligence questions could "be answered in a reasonable amount of time," Bogdanov admitted: "I didn't know."[135]

The pattern of interrogation was, as Harrison testified, "bizarre if the investor already knew about it and approved the budget that enabled it."[136]

Momentum only picked up with a series of meetings in Monaco in January among Rybolovlev, Bogdanov, Harrison, and Batarina, during which Bogdanov continued to issue requests for extensive, irrelevant information.[137] Although Rigmora eventually approved budgets for Replicate[138]—unlike the other companies listed in Harrison's December 24th communication—the diligence process for Replicate marked a departure from the historically collaborative approach over the Partnership's twelve-year history. Bogdanov introduced barriers where none had existed before.

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134 Tr. (Harrison) 130:4–16.

135 Tr. (Bogdanov) 328:17–329:1.

136 Tr. (Harrison) 129:3-5.

137 Tr. (Bogdanov) 293:3–11.

138 Rigmora initially approved Replicate budgets conditioned on, in addition to the Royalty Financing, a pharmaceutical deal with a third-party. *See* Tr. (Harrison) 87:4–17. It later contributed funds notwithstanding those conditions—part of the pick-and-choose, on-and-off approach to funding. *See* Tr. (Bogdanov) 295:13–18.

B. Other Budget Delays Persist Through March

That newfound friction was intentional—an end in itself. Bogdanov specifically instructed Iskhakov (who had no science training) to generate diligence requests that would be onerous and time-consuming to fulfill.[139] Additional meetings occurred in March 2025 in Monaco to discuss the budget approval requests for Aulos, Ascidian, and Marengo.[140] As part of these meetings, ATP provided Bogdanov and Rybolovlev extensive presentation materials and data rooms.[141] The senior management teams for those companies flew overseas, as did consultant Bill Grossman, whom ATP engaged for Bogdanov's and Rybolovlev's benefit.[142] Grossman assessed courses of action for Aulos, but, eventually, at a subsequent meeting, Rybolovlev deferred to Harrison's expertise before agreeing, in Harrison's words, "we should do Aulos."[143]

In the end, however, the Monaco meetings only gave the illusion of progress toward funding. They did not result in approved budgets for Aulos, Ascidian, or Marengo.[144]

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[139] *See* JX-1287 at 1 (instruction to revise questions to be "open-ended"); *see also, e.g.*, JX-1107 at 1; JX-1112 at 1.

[140] Tr. (Harrison) 92:15–18.

[141] *Id*. 94:5–24; JX-1222 at 1.

[142] Tr. (Harrison) 95:1–18.

[143] *Id*. at 95:24–97:15.

[144] Tr. (Harrison) 97:16–18.

Rigmora's "diligence" requests gave Rigmora time to delay approving new budgets.[145] Rigmora concedes it lacked expertise to have evaluated the responses in any meaningful way, without subject matter experts on staff or retained consultants to assist.[146] The Bogdanov-led process was not only a departure from the Fund's prior budget practices, but also far outside the norm for follow-on investments by an investor with intimate knowledge of the companies. Harrison reflected at trial that "the totality of these diligence questions" was obstructionist.[147]

VIII. Rigmora Weaponizes the GP's Good-Faith Efforts to Accommodate Rigmora's Purported Concerns

The stalling both on budgets and a Royalty Financing deal prompted Harrison to realize, in April 2025, that Rigmora was unwilling to approve any additional budget requests.[148] In light of this, with the understanding that the only capital the Partnership would receive from Rigmora would be capital called within approved budgets, Harrison tried to propose a way to "work within" Rigmora's imposed constraints to "figure out how to move some of the clinical projects along."[149] The

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145 [redacted]. JX-1119 at 4; Bogdanov Dep. 213:16–220:25.

146 *See, e.g.*, Bogdanov Dep. 31:2–9; 45:23–46:10; 46:11–15; Blöchlinger Dep. 37:17–25; Yakovlev Dep. 30:23–25.

147 Tr. (Harrison) 131:1–10.

148 *Id*. 97:19–98:20.

149 *Id*.

reallocation proposal consisted of moving some of the approved budget amounts from the preclinical companies to clinical companies.[150]

Ultimately, the parties did not agree on the reallocation proposal.[151] Harrison testified that on or around May 9, he had a Zoom call with Bogdanov, Rybolovlev, and Batarina.[152] At this meeting Harrison provided a brief introduction and then offered a more formal presentation.[153] In response, Bogdanov and Rybolovlev said that such a presentation would be unnecessary as "[t]his is moving in the right direction" and the next step would be to meet with lawyers.[154]

The "lawyer call" followed on May 12, 2025, and Harrison characterized it as an "ambush."[155] Rigmora's attorneys distorted the purpose and meaning behind the reallocation proposal, saying to Harrison "it's obvious that you think the preclinical companies are worthless, otherwise why would you have proposed this reallocation."[156] On the contrary, as Harrison later clarified on May 19, 2025: "[redacted]

[redacted]

150 *Id*. 98:21–99:2.

151 *Id*. 99:3–6.

152 *Id*. 99:7–15.

153 *Id*.

154 *Id*.

155 *Id*. 100:18–21.

156 *Id*. 101:2–12.

[redacted]," and the reallocation proposal was only "[redacted]."[157]

In any event, Harrison withdrew the proposal on the May 12 call.[158] Nevertheless, on May 15, Rigmora again exploited Harrison's good-faith compromise by using it to justify imposing new, severe conditions on any further funding.

IX. Rigmora's May 15 Email Makes Its Exit Scheme Explicit

Facing urgent budget requests, Bogdanov responded to ATP in a May 15, 2025 email that contained numerous concerning components (the "May 15 Email").[159]

First, Bogdanov declared that the Fund should cease further funding of seven preclinical companies, which he referred to as the "Early-Stage Companies," and which all had approved yet unspent budgets.[160] He claimed those companies had "no way for a path to commercial success," had "failed to meet the milestones set out in

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157 JX-1336 at 1.

158 *See* Tr. (Bogdanov) 305:18–20.

159 JX-1319 at 1.

160 *Id*.

the investment memoranda on which [Rigmora's] initial funding was premised," and there was "no third party interest."[161] In casting the companies as dead-ends, the May 15 Email continued to make use of Harrison's reallocation proposal, misstating that Harrison "hold[s] a similar view" that "further funding of those Early-Stage Companies will waste the ATP Fund's assets."[162]

Second, though Rigmora had already approved those budgets, Bogdanov flipped the burden on ATP. He invited a "detailed explanation" of why, despite the companies' supposed unworthiness, Rigmora should "contribute further capital" to the preclinical companies.[163] Bogdanov stated Rigmora's intent to "comply" with the LPA but conditioned its cooperation on whether ATP could "demonstrate that the LPA allows" ATP to call further capital.[164]

Third, Bogdanov expressly conditioned any further funding of the four *clinical stage companies* on ATP's agreement to "wind down or liquidate the Early-Stage Companies."[165] After months of work to justify budget requests for the clinical companies whose requests ATP issued on December 24, 2024, Rigmora confirmed

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161 *Id*.

162 JX-1336 at 1–2.

163 JX-1319.

164 *Id.*

165 Bogdanov did not address the two preclinical companies Nereid and Nine Square that had already expended their initial Series A funding. *See id.*

that it would not even "consider" those budgets until ATP agreed to release Rigmora from its obligations to meet capital calls for already-approved budgets and abandon existing investments through liquidation or wind down.

Fourth, the May 15 Email demanded "objective information" to "facilitate the discussion" of any "new budgets"—suggesting that Bogdanov had not digested the past five months' data.[166]

Finally, the May 15 Email buried its lede. In the penultimate sentence, Bogdanov stated that, as a threshold matter, Rigmora rejected any further funding obligations because it does "not presently have any outstanding capital commitments to ATP Fund and therefore has full discretion whether to agree to fund any new investment proposals."[167]

After five months of performative diligence requests and delay tactics that created *the appearance* of legitimate inquiry and the *illusion* of progress, the May 15 Email finally revealed what Bogdanov's "tight controls" were intended to achieve: an exit from biotech venture investing. The ultimatum—liquidate the preclinical companies *with already approved budgets* or receive no funding for companies *in the midst of clinical trials*—was not a negotiation but the execution of the strategy

166 *Id.*

167 *Id*.

Bogdanov had mapped out in 2022, when he declared that Rigmora needed to "drastically reduce ATP payments" and put a "plug on expenses."[168]

X. ATP Calls Six Months Of Capital; Rigmora Fails to Fund

On May 30, the GP called [redacted] in capital for the preclinical companies as well as Replicate, Marengo, and Ascidian and [redacted] in ATLS Fees and partnership expenses.[169] ATP determined to call the capital necessary to fund the ATLS Fee, certain existing Fund expenses, and capital needed to maintain research activity at each of the below preclinical companies with remaining approved (but unfunded) budgets:

Company	Pool	Capital Called	Unfunded Approved Budget[170]
Aethon	ATP V-2	[redacted]	[redacted]
Apertor	ATP V-2	[redacted]	[redacted]
Ascidian	ATP V-3	[redacted]	[redacted]
Deep Apple	ATP V-2	[redacted]	[redacted]
Evercrisp	ATP V-2	[redacted]	[redacted]
Initial	ATP V-1	[redacted]	[redacted]
Marengo	ATP V-3	[redacted]	[redacted]
Marlinspike	ATP V-2	[redacted]	[redacted]
Red Queen	ATP V-2	[redacted]	[redacted]
Replicate	ATP V-2	[redacted]	[redacted]
TOTAL:		[redacted]	[redacted]

[168] JX-463 at 2–3.

[169] *See* JX-1387 at 1; JX-1388 at 1; JX-1390 at 1; JX-1391 at 1; JX-1393 at 1; JX-1394 at 1; JX-1395 at 1; JX-1396 at 1; JX-1397 at 1; JX-1398 at 1; JX-1415 at 1.

[170] JX-1622.

ATP worked to calculate the amounts in the foregoing May 30 capital calls, plus a call for [redacted] in ATLS Fees and already-incurred partnership expenses (together with a revised June 1 capital call for Replicate, the "May 30 Calls"). As Harrison testified, the figures were keyed to estimates for six months of budgets, with the goal of permitting company survival and "following forward on … research plans."[171] At trial, Rybolovlev corroborated this view that six-months' worth of money permits a company's "normal functioning."[172]

With the exception of Replicate, for which the GP issued a revised capital call on June 1, 2025, the May 30 Calls were due on June 13, under paragraph 5(a) of the LPA.[173] The revised Replicate capital call was due June 16, 2025.[174] Rigmora has never contributed capital in response to any of the May 30 Calls.[175]

ATP issued Default Notices on June 17, 2025,[176] but an *ex parte* order in the later-filed Cayman Islands litigation enjoins the GP from "taking any [further] steps to designate, deem or treat the Plaintiffs as a 'Defaulting Partner' … or enforce any

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171 Tr. (Harrison) 110:8–21.

172 Tr. (Rybolovlev) 392:8–11.

173 *See* JX-1387 at 1; JX-1388 at 1; JX-1390 at 1; JX-1391 at 1; JX-1393 at 1; JX-1394 at 1; JX-1395 at 1; JX-1396 at 1; JX-1397 at 1; JX-1398 at 1; JX-1415 at 1.

174 JX-1415 at 1.

175 PTO ¶ 78.

176 *See, e.g.*, JX-1620.

purported 'Default Notice' or 'Default Charge' against the Plaintiffs; … arising out of or in relation to the Plaintiffs' non-payment of the capital calls issued by the Defendant on 30 May 2025 and 1 June 2025 respectively" (the "Cayman Order").

XI. The Fund's Investments Achieve Significant Scientific Progress

The Fund currently has fifteen portfolio companies. Each company is co-founded or co-led by at least one ATP Venture Partner, who help with growth and development to realize each company's unique value proposition and investment thesis.[177] The Venture Partners help the portfolio companies with all aspects of growth and development, both scientific and non-scientific.

Expert analysis from Mark Robbins, Ph.D, J.D., validates the scientific merit undergirding each portfolio company and the portfolio at-large. Robbins' analysis relied on, *inter alia*, the composition of each company's management team, development progress that has been made and is expected to be made, the presence of IP protections, the ability of a company's therapeutic to meet an unmet need, and third-party interest in the companies.[178]

[177] *See, e.g.,* Tr. (Liras) 242:11–243:3; 160:11-18.

[178] Tr. (Robbins) 180:3–16; JX-1573 (Robbins Opening) ¶ 34.

A. Seven Preclinical Companies Show Promise

The seven preclinical companies[179]—Aethon, Apertor, Deep Apple, Evercrisp, Initial, Marlinspike, and Red Queen—each have shown technical merit in addressing a major unmet therapeutic need. In some instances, initial research and data provided pivot points for the preclinical companies to refocus their efforts on unexpected, more fruitful avenues. ATP personnel, including Harrison and Venture Partner Spiros Liras, PhD, testified at length to these facts, which were further expounded upon by Robbins,[180] whose analysis of the preclinical companies, individually and in aggregate, indicated "significant scientific and clinical potential."[181]

Robbins sets out a laundry list of scientific luminaries and experienced biotech executives involved in each preclinical company's founding.[182] All seven companies have made noteworthy development progress,[183] and each has significant development progress on the horizon.[184] All have generated third-party interest,

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[179] PTO ¶ 41. In Defendants' correspondence to ATP dated May 15, 2025, and from time to time thereafter, these companies have also been referred to as "Early Stage Companies." *Id.*

[180] *See, e.g.,* Tr. (Harrison) 74:13–20; Tr. (Liras) 246:23–247:16.

[181] JX-1573 (Robbins Opening)¶¶ 23(iv), 38; Tr. (Robbins) 183:13–23.

[182] JX-1573 (Robbins Opening) ¶¶ 70, 49, 80, 89, 97; Tr. (Robbins) 187:19–188:11.

[183] JX-1573 (Robbins Opening) ¶¶ 55, 74, 76(ii), 84, 91, 102, 110, 117; Tr. (Robbins) 186:9–17 ("All the preclinical companies had made significant development progress.").

[184] *Id.* ¶¶ 53, 74, 76(ii), 84, 94, 102, 110, 119.

including from pharma giants like Eli Lilly, Novartis, Novo Nordisk, Pfizer, Merck, and AstraZeneca.[185]

For example, Aethon is an immuno-oncology company with a focus on developing synthetic antibodies that target cancer cells.[186] Its founders include fellows in prominent scientific organizations and past biotech founders.[187] Aethon has entered into a multi-year collaboration agreement with Revolution Medicines, under which Aethon is entitled to approximately [redacted] in research funding from Revolution and option-based future payments that could potentially total up to $940 million, plus royalties.[188] As of February 2025, Aethon was on track to announce development candidates in late 2025 or early 2026.[189]

Deep Apple, on the other hand, illustrates the value derived from a company shifting its therapeutic focus when enabled by data. Deep Apple's technology allows for the relatively rapid technology-assisted review of how billions of different

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[185] *Id.* ¶¶ 56 (Evercrisp discussions with Lilly and Novartis), 75 (Aethon collaboration with Revolution Medicines), 94 (Initial discussions with Merck, J&J, and Ono), 104 (interest in Red Queen from "several investors" and grant from U.S. federal government), 111 (Marlinspike discussions with AstraZeneca, Roche/Genentech, Lilly), 121 (Deep Apple discussions with 30 potential investor partners and 15 pharma partners).

[186] *Id.* ¶¶ 69, 71.

[187] *Id.* ¶ 70.

[188] *Id.* ¶ 75; Tr. (Robbins) 186:21–187:1.

[189] JX-1573 (Robbins Opening) ¶ 74; JX-1210 at 3.

chemical compounds may attach to certain proteins within the body.[190] Deep Apple's research could apply across a wide range of therapeutic needs, making the potential for commercialization profound.[191]

As Liras testified at trial, following initial research and discussion with scientific project leads, Deep Apple narrowed its focus "to move in, all-in, in obesity" in light of increased commercial activity and demand in this space.[192] Deep Apple " is now yielding several clinical candidates."[193] One such clinical candidate was the basis for Deep Apple's partnership with Novo Nordisk, for which Deep Apple received an upfront payment of approximately [redacted], with the potential to earn up to $812 million in total.[194]

Value propositions for the remaining preclinical portfolio companies include[195]:

- **Apertor**, focused on developing molecules that disrupt disease-causing protein interactions[196];

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190 *See* Tr. (Liras) 260:20–261:2; JX- 0289 at 1–2; JX-1573 (Robbins Opening) ¶ 115.

191 Tr. (Liras) 260:20–261:2; JX- 0289 at 1–2.

192 Tr. (Liras) 261:3–21.

193 *Id.*

194 Tr. (Liras) 261:3–21; JX-1427; JX-1428.

195 In addition, ATP has two other preclinical companies in its portfolio, Nereid and Nine Square.

196 JX-1573 (Robbins Opening) ¶ 79.

- **Evercrisp**, a genetic medicine delivery platform founded by Nobel Laureate Dr. Jennifer Doudna[197];

- **Initial**, developing molecules that can disrupt the creation of disease-causing proteins at the cellular level[198];

- **Marlinspike**, fighting cancers by regulating how cells process genetic mutations that can cause cancer[199]; and

- **Red Queen**, developing rapid response antiviral medicines to protect against rapidly-evolving influenzas, coronaviruses, and other pathogens.[200]

B. Clinical-Stage Companies Continue to Advance

ATP has four additional companies in its portfolio that are currently at the clinical trial stage:

- **Aulos**, an immuno-oncology company developing an antibody that focuses the immune system's ability to attack cancer cells[201];

- **Ascidian**, an RNA-editing company with a focus on Stargardt disease, a major cause for macular degeneration and blindness in children[202];

- **Marengo**, an immuno-oncology company developing antibodies harnessing the immune system's ability to fight cancer[203]; and

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197 *Id.* ¶ 49.

198 *Id.* ¶ 88.

199 *Id.* ¶ 108.

200 *Id.* ¶ 96.

201 *Id.* ¶¶ 124, 126.

202 *Id.* ¶ 154.

203 *Id.* ¶ 147.

- **Replicate**, developing self-replicating RNA medicines to create protein factories inside the body that become the source of therapeutics.[204]

Robbins's analytical framework applies equally to the Fund's clinical-stage companies.[205] Each of the four clinical-stage companies has a "who's-who" lineup of founders and leaders, including past biotech CEOs who have sold their companies to pharma giants like Bristol Myers Squibb and Amgen for billions of dollars,[206] inventors on dozens of patents,[207] and seasoned pharma executives and scientific leaders.[208] The clinical stage companies are all currently engaged in active clinical trials[209] and have generated interest from potential third-party collaborators.[210]

Replicate is another testament to the value of shifting research focus. Replicate's RNA technology was originally focused mostly on creating cancer vaccines; this focus was pronounced Replicate's original investment memorandum.[211] As Harrison testified, however, the company realized the

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[204] *Id.* ¶¶ 133, 136.

[205] *Id.* ¶¶ 33–34.

[206] *Id.* ¶ 125.

[207] *Id.* ¶ 133–134.

[208] *Id.* ¶ 155.

[209] *Id.* ¶¶ 126–128; 137–142; 149–150; 157.

[210] *Id.* ¶¶ 131 (Aulos' developing partnerships with Pfizer, Regeneron); 143 (Replicate's partnership with leading Brazilian pharma company, and negotiations with Novo Nordisk); 152 (Marengo in partnerships with Ipsen and Gilead); 158 (Ascidian partnership with Roche, and discussions with Lilly, Regeneron, and Bayer).

[211] JX-0150 at 9.

applicability of this technology to the delivery of a rabies vaccine.[212] In light of this, Replicate is in late partnership discussions with Brazilian pharma giant Instituto Butantan, which will enable Replicate to push its rabies vaccine toward commercialization globally.[213]

XII. The Portfolio Companies Face Immediate Harm, Threatening Years Of Scientific Progress And Life-Saving Therapies

Rigmora's actions have put the companies at risk of significant, imminent harm. The negative impacts of a funding default for early-stage life sciences companies are numerous, including, but not limited to, loss of talented personnel, delayed or abandoned R&D, difficulties restarting halted or delayed trials, difficulty attracting future investments or partners, and negative market perception in general.[214] Further, abruptly discontinuing or withholding funding for preclinical companies can trigger bankruptcy proceedings, leading to distressed sales of the key assets for "a fraction of their actual value."[215]

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[212] Tr. (Harrison) 85:20–86:18.

[213] *Id.*; JX-1573 (Robbins Opening) ¶ 143.

[214] JX-1572 (Rao Opening) ¶ 67; *see also* Tr. (Harrison) 60:19–10; Tr. (Yanchik) 165:5–21; JX-1174 at 2 (without "financing rounds to achieve value-creating milestones plus margins of at least six months … biotech investors do not invest, and typically top founders and high-quality managers will not participate.").

[215] JX-1573 (Robbins Opening) ¶ 162.

Already, the preclinical companies are in "desperate condition" due to Rigmora's refusal to meet its funding obligations.[216] ATP has kept them alive during this litigation by paring back operations with the goal of preserving "critical projects" and "key employees [who] retained the knowledge."[217] This has required ATP to move certain companies out of their facilities, sell capital equipment, reduce research programs, and terminate approximately 70% of employees portfolio-wide.[218] Even with such protective measures, one company has already been forced to cede valuable technology back to the source institution.[219]

The companies are currently in a form of "stasis" such that their research could ramp up again upon receipt of funding.[220] However, as Yanchik testified, "that opportunity will exist" only for "a finite period of time."[221] That is because, in Yanchik's words, "whenever you stop a research organization, it starts to deteriorate."[222] The companies face an imminent risk of losing key employees and

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[216] Tr. (Harrison) 113:14–16; *see also* Tr. (Liras) 265:18–22 (recent lack of funding is "devastating").

[217] Tr. (Harrison) 114:2–12; Tr. (Yanchik) 163:17-164:10.

[218] Tr. (Harrison) 113:14–114:1; Tr. (Yanchik) 162:23–163:6; *see also* Tr. (Liras) 266:1–7 ("[T]he companies at this point in time are … operating with skeletal crew").

[219] Tr. (Harrison) 113:14–114:1.

[220] Tr. (Yanchik) 163:17–165:4; *see also* Tr. (Harrison) 114:2–12.

[221] Tr. (Yanchik) 164:18–165:4; *see also* Tr. (Harrison) 114:2–12.

[222] Tr. (Yanchik) 165:5–9; *see also id.* 166:6–167:2.

competitive advantages if additional funding is not received soon, diminishing or even destroying the value of years of research.[223] Worse yet, the companies could be forced into bankruptcy by their creditors.[224] Yanchik, who has been the primary representative for the companies in communications with the creditors,[225] testified at trial that he does not "believe [the creditors] will hold off for much longer … and then [ATP is] likely to lose the assets" entirely.[226]

The current and anticipated harm as a result of the funding shortfall is precisely why the partners agreed, when they entered the LPA, that "the damages suffered by the Partnership as the result of any failure by a Limited Partner to timely make a capital contribution or other payment to the Partnership that is required by this Agreement cannot be estimated with reasonable accuracy."[227]

ARGUMENT

I. Rigmora Breached the LPA

A. Legal Standards

The LPA states that the "terms and provisions" of the LPA "shall be construed under the laws of the Cayman Islands, and thus this Court should apply Cayman law

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223 *Id.* 165:5–16.

224 *Id.* 165:17–21.

225 *Id.* 163:3–6.

226 Tr. (Yanchik) 165:17–21.

227 JX-0001 (LPA) ¶ 5(c).

in determining breach. LPA ¶ 18(g)(1).[228] The elements to prove a breach are: (1) a valid contract, (2) a breach of that contract, and (3) damages arising from the breach.[229]

Under Cayman law, a court interprets a written contract according to "the intention of the parties by reference to 'what a reasonable person having all the background knowledge which would have been available to the parties would have understood them to be using the language in the context to mean.'"[230] The aim is to ascertain the "objective meaning" of the contract based on not just the language of a particular clause but on the "contract as a whole and, depending on the nature, formality and quality of drafting of the contract, give more or less weight to elements of the wider context in reaching [a] view as to that objective meaning."[231]

Contract interpretation is a "unitary exercise involv[ing] an iterative process by which each suggested interpretation is checked against the provisions of the contract and its commercial consequences are investigated," and a close textual

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[228] PTO ¶ 25.

[229] JX-1588 (Phillips Opening) ¶ 56. The same elements apply under Delaware law, *e.g.*, *Kuroda v. SPJS Hldgs.*, 971 A.2d 872, 883 (Del. Ch. 2009), and there is therefore no conflict as to the basic elements of the claim.

[230] JX-1574 (Bloch Opening) ¶ 23(1). *See also* JX-2032 at 18, *Investors Compensation Scheme*, at 913 ("[T]he meaning of the document is what the parties using those words against the relevant background would reasonably have been understood to mean.").

[231] *Id.* ¶ 23(2).

reading is balanced against "the factual background and the implications of rival constructions" to arrive at the objective meaning of the contract.[232]

Partnership agreements, like other contracts, are to be construed with "regard … to the factual matrix in which it was executed."[233] When the language of an agreement is unclear, a court applying Cayman law "may be particularly helped by considering the factual matrix and the purpose of similar provisions in contracts of the same type."[234] *However*, "[t]here is no need to find any ambiguity in the contract before the principle" of the factual matrix "can be brought into play."[235]

The scope of the factual matrix is expansive; as Lord Hoffmann stated in *Investors Compensation Scheme*, it includes anything that would have affected the way in which the language would have been understood by a reasonable man.[236] This includes not only factual matters but also, as Justice Leggatt explained in *Yam Seng*, "shared values and norms of behaviour" whether general, specific to the

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[232] *Id.* ¶ 25.

[233] JX-1588 (Phillips Opening) ¶ 58 (quoting JX-2080, *Lindley & Banks on Partnership* ("*Lindley*")).

[234] JX-1574 (Bloch Opening) ¶ 25; *accord* JX-1588 (Phillips Opening) ¶ 61.

[235] JX-1588 (Phillips Opening) ¶ 58 (quoting *Lindley*).

[236] *Invs. Comp. Scheme Ltd v. West Bromwich Bldg. Soc.* [1997] UKHL 28, 912–913 ("Subject to the requirement that it should have been reasonably available to the parties" and the exception of "declarations of subjective intent", "it includes absolutely anything which would have affected the way in which the language of the document would have been understood by a reasonable man.").

industry, or, as critical here, "arising from features of the particular contractual relationship."[237] As Leggatt observes, "[m]any such norms are naturally taken for granted by the parties when making any contract without being spelt out in the document recording their agreement," necessitating a broader view of the context of contracting when interpreting the language of the contract.[238]

B. Rigmora Has Outstanding Funding Commitments

A valid contract exists (the LPA) and Rigmora remains bound by its funding commitments. Rigmora currently has over [redacted] in outstanding funding commitments to the Fund, consisting of approximately [redacted] in unfunded, approved budgets,[239] and approximately [redacted] in committed capital toward unapproved budgets. Of those remaining commitments, approximately [redacted] of the unfunded, approved budgets were allocated to Deep Apple, Initial, Aethon, Replicate, Evercrisp, Red Queen, Apertor, and Marlinspike in Pools V-1 and V-2,[240] and approximately [redacted] of the unfunded, approved budgets were allocated to Marengo and Ascidian of Pool V-3.[241] And yet on the basis of no support other than Bogdanov's desire to focus Rigmora's investments on other "cash

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237 *Yam Seng Pte v. Int'l Trade Corp*, [2013] EWHC 11 (QB) [134].

238 *Id.*

239 *See* JX-1622 at 10, 13.

240 JX-1622 at 10.

241 JX-1622 at 13.

cow" projects and away from biotech, Rigmora takes the position that it has exceeded the capital commitments it agreed to fund, and on those grounds, it refuses to meet capital calls or to engage in good faith on reasonable budget approvals. Rigmora's position is contradicted by the overwhelming evidence reflecting not only the parties' longstanding intention regarding Rigmora's remaining capital commitments but also—consistent with Cayman law—the objectively reasonable interpretation of intent according to the facts as known to the parties at the time of execution.

Following success flowing from the parties' investments through the initial $1.5 billion in commitments to the Fund, Rigmora twice agreed, through Amendments 17 and 20, to increase its overall capital commitments to ATP through express commitments to Pools V-1, V-2, V-3, and Braeburn.

First, pursuant to Amendment 17, Rigmora agreed to commit $1 billion in new money to be split between the two pools that would later be renamed Pool V-1 and Pool V-2.[242] Rigmora agreed to be solely responsible for this new capital commitment. Amendment 17 unambiguously provided that Rigmora would commit to Pool V-2 "such amount … as is equal to $1 billion minus the aggregate amount

[242] *Id.* (setting forth that commitments to Pool C would consist of "such amounts of Contingent Subscriptions by the Subject Limited Partner as is equal to $1 billion minus the aggregate amount of capital contributions made from time to time by the Subject Limited Partner to Pool B").

of capital contributions made from time to time by [Rigmora] to" Pool V-1. In other words, the $1 billion commitment would be split exclusively between Pool V-1 and Pool V-2. Blue Horizon and Ezbon executed subscription agreements shortly thereafter committing to contribute [redacted] and [redacted], respectively, to Pools V-1 and V-2.[243]

Second, pursuant to Amendment 20, Rigmora and Harrison agreed to an overall increase in their respective commitments to the Fund. This increase flowed from a complex, carefully negotiated process that consisted of: (i) writing down the approximately [redacted] in remaining commitments to Pool IV, save for an estimated [redacted] in fees and expenses (ultimately [redacted]) associated with litigation concerning portfolio company Syntimmune; (ii) establishing a new Pool V-3, with approximately $310.5 million in commitments following execution of the amendment; (iii) establishing a new Pool Braeburn, with [redacted] in commitments following execution of the amendment; and (iv) leaving undisturbed the remaining uncalled commitments to Pools V-1 and V-2 from the $1 billion subscription agreements that accompanied Amendment 17.[244] Rigmora and Harrison agreed to Pool V-3 commitments.

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[243] Tr. (Harrison) 41:15–42:154; JX-0099; JX-0101.

[244] JX-1061 at 3–11.

Every capital call after Amendment 20 included an "Exhibit A" with a detailed chart laying out, on a pool-by-pool basis, the uncalled committed capital prior call, the amount of capital called from each applicable pool relevant to that call, and the amount of uncalled committed capital that would remain in each pool after the call, consistent with the figures set forth above. The chart was first transmitted to Rigmora three days after Amendment 20 in a June 24, 2021 capital call. That call reflected $1.462 billion in unfunded commitments prior to the call, consisting of (i) an estimated $20 million to Pool IV for fees and expenses; (ii) [redacted] to Pools V-1 and V-2; $310.5 million to Pool V-3; and [redacted] to pool Braeburn. Rigmora's CFO, Yakovlev, testified at trial that he was unaware of Rigmora ever challenging these figures. Harrison also was unaware of Rigmora ever challenging this commitment calculation prior to Kolonchina suddenly asserting in October 2024 that Rigmora was no longer obligated to meet capital calls.

Over the following four years, ATP would call capital from time to time, and Rigmora would meet those capital calls consistent with its obligation under Paragraph 5(a) of the LPA. Each time Rigmora met a capital call, it did so recognizing that Rigmora had hundreds of millions of dollars in outstanding commitments to Pools V-1 and V-2, Pool V-3, and Pool Braeburn.

Finally, Rigmora's internal records confirm that they also recognized over $500 million in remaining commitments. On January 20, 2025, Bogdanov discussed

with Ishakov what the financial condition of Rigmora's investments in ATP would look like if Rigmora "stop[ped] additional investments and worked with the current budgets" in ATP.[245] The analyst sent Bogdanov an internal Rigmora record indicating that Rigmora would have over [redacted] in "residual commitments" across Pools V-1, V-2, and V-3.[246] Only five days earlier, Rigmora General Counsel Patrik Blöchlinger revised this same tracker and provided comments that Ishakov implemented into the version he sent to Bogdanov.[247]

C. Rigmora Breached Its Express Duty To Meet Capital Calls For Companies With Approved Budgets

The trial record establishes that Rigmora breached its obligation to meet capital calls for companies with approved budgets. On May 30 and June 1, 2025, ATP issued capital calls for ten portfolio companies against their existing, approved budgets: Deep Apple, Aethon, Replicate, Evercrisp, Red Queen, Apertor, Initial, and Marlinspike of Pools V-1 and V-2, and Marengo and Ascidian of Pool V-3.[248] These approved budgets were well within the remaining commitments for each pool. And yet Rigmora has refused to meet these calls. Rigmora's unjustified refusal constitutes material breach.

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[245] JX-1142 at 1.

[246] JX-1142 at 1.

[247] JX-1635 at 1.

[248] JX-1622 at 1, 13.

1. Rigmora Breached Paragraph 5(a) With Respect To The Pool V-1 And V-2 Preclinical Companies

Paragraph 5(a) of the LPA allows the GP to call capital in amounts equal to the LP's Contingent Subscription, ¶ 5(a)(i), in amounts sufficient to enable the Fund to invest in projects with approved budgets, ¶ 5(a)(ii)(E), and in amounts sufficient to cover Partnership expenses, ¶ 5(a)(ii)(A)–(B), and an approved ATLS Fee, ¶ 20(e). The LPA is clear that "[a] Partner may not make less than the full amount of any required capital contribution." ¶ 5(a)(i). Discretion to issue these capital calls rests with the GP.

In breach of Paragraph 5, Rigmora failed to meet eight capital calls ATP issued on May 30 and June 1, 2025 for portfolio companies in Pools V-1 and V-2 with existing, approved budgets. The facts are simple:

The GP validly called capital. On May 30 and June 1, ATP called $51.8 million in capital portfolio companies in Pools V-1 and V-2.[249] These calls were well within the approximately [redacted] in budgeted, uncalled capital commitments for Pools V-1 and V-2 as of May 30.[250]

[249] *See* JX-1622 at 10.

[250] Tr. (Harrison) 90:13–21.

The capital came due. With the exception of Replicate, which was due June 16 following a revised capital call on June 1, the May 30 Calls were due on June 13.[251]

Rigmora did not pay when due. It is undisputed that Rigmora did not answer the May 30 Calls by June 13 or 16, and it has not since.[252]

Harrison testified at trial that ATP issued these calls to provide six months' of budget to carry forward research plans.[253] Following Rigmora's failure to meet these capital calls, ATP issued notices of default to Rigmora, notifying the Limited Partner that its failure to contribute capital violated the LPA.[254] Notwithstanding receipt of these calls and default notices, Rigmora has yet to contribute the capital.

2. Rigmora Breached Paragraph 5(a) With Respect To The Pool V-3 Preclinical Companies

For the same reasons that Rigmora's failure to meet calls for Pools V-1 and V-2 constituted a breach, Rigmora's failure to meet capital calls for companies in Pool V-3—Marengo and Ascidian—constitute a breach of Paragraph 5(a) of the LPA. On May 30 the GP called [redacted] in capital for portfolio companies in

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[251] *Id.*; *see also* JX-1390 at 1; JX-1391 at 1; JX-1393 at 1; JX-1394 at 1; JX-1395 at 1; JX-1397 at 1; JX-1398 at 1.

[252] PTO ¶ 78; Tr. (Harrison) 113:3–5.

[253] Tr. (Harrison) 109:1–110:24.

[254] *Id.* 113:6–13; JX-1610 at 1; JX-1611 at 1; JX-1613 at 1; JX-1614 at 1; JX-1615 at 1; JX-1617 at 1; JX-1619 at 1; JX-1620 at 1.

Pool V-2.[255] These May 30 Calls were due on June 13.[256] Harrison testified at trial that ATP issued these calls to provide six months of budget to carry forward research plans for each of these portfolio companies.[257] These calls were within the approximately [redacted] in budgeted, uncalled capital commitments for Pool V-3, and the applicable approved budgets for each of these portfolio companies, as of May 30.[258]

3. Rigmora Breached Paragraph 5(a) And 20(e) With Respect To The ATLS Fee And Partnership Expenses

Rigmora's failure to pay the ATLS Fee and Partnership Expenses also breached the LPA. As to the ATLS Fee, the GP called [redacted], half of the annual amount that Rigmora agreed to pay in Amendment 20 and refused thereafter to increase.[259] The LPA requires Rigmora to "make capital contributions to the Partnership to fund the ATLS Fee semi-annually in advance."[260] As to Partnership expenses, Paragraph 5(a)(ii)(A) and (B) require Rigmora to pay capital calls for existing Partnership expenses as well as those expected to be incurred over the next

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255 *See* JX-1392 at 1; JX-1396 at 1.

256 *Id.*

257 Tr. (Harrison) 109:1–110:24.

258 *Id.* 89:6–90:21; JX-1622 at 13.

259 JX-0222 at 10 (LPA Am. 20 ¶ 6).

260 *Id.*

six months.[261] Rigmora has no consent rights with respect to Partnership expenses.[262] The May 30 Call for expenses for the prior six-month period from December 2024 to May 2025 thus fell squarely within Paragraph 5(a)(ii), and Rigmora was required to meet it.

It is undisputed that Rigmora failed to answer the May 30 Calls when due, and has not done so since.[263] ATP then notified Rigmora that its failure to contribute capital consistent with its obligation to do so under the LPA violated Paragraph 5(c).[264]

4. Rigmora's Milestone Defense Is Anti-Contractual And Factually Wrong

Rigmora seeks to escape its funding obligations by pointing to purported missed "milestones" set in outdated investment memoranda.[265] This defense fails as a matter of law and fact.

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[261] JX-00004 at 2 (LPA Am. 3).

[262] JX-0011 at 10 (LPA Am. 9) ("For the avoidance of doubt, the Partnership's budget delivered to the Subject Limited Partner shall be provided for informational purposes only and the Subject Limited Partner shall have no consent rights in relation to such budget.").

[263] PTO ¶ 78; Tr. (Harrison) 113:3–5.

[264] Tr. (Harrison) 113:6–13; JX-1612 at 1; JX-1616 at 1.

[265] Rigmora Br. Dkt. 203 at 42 ("Any capital calls for those companies would therefore be invalid under paragraph 5(a)(ii)(E) of the LPA, which provides that a capital call may not be made except 'in accordance with' a portfolio company budget.").

First, milestones are not contractually required. The LPA contains no milestone conditions either as a precondition for budget approvals, a second-look contingency before funding approved budgets, or a condition to calling capital. To the extent that the parties agreed to impose milestones—as they did with the Replicate budget approval—they did so expressly, not through some implied incorporation of investment memoranda.[266] And although five companies' (Marlinspike, Aethon, Aulos, Braeburn, and Replicate) Series A agreements originally contained milestone conditions, such conditions applied to *the Fund's* obligation to fund the companies, not the LP's obligation to review budgets in good faith or meet capital calls.[267] Only the LPA—not any company purchase agreement or memoranda—determines Rigmora's rights and obligations with respect to budgets and capital calls for the already-approved budgets. Even so, the Series A agreements provide discretion to fund the companies, notwithstanding milestones.[268]

Second**,** the milestones in dated investment memoranda misalign with the commercial realities of biotech investing.[269] As Robbins explained, "[m]any very

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[266] *See* Tr. (Harrison) 33:23–34:5.

[267] *See* JX-2201; Tr. (Harrison) 140:5–10; *see, e.g.*, JX-1329 at 64, 167, 441, 586.

[268] *See e.g.*, JX-1329 at 71.

[269] *See* Tr. (Harrison) 105:3–11; JX-1583 (Robbins Rebuttal) ¶ 26. For example, Liras testified that milestones "shouldn't be" static requirements "because … early research … changes quite rapidly." Tr. (Liras) 245:4–17.

successful therapeutics have missed development milestones."[270] Apparent "misses" were actually successful pivots that increased value. Deep Apple pivoted to obesity and secured a partnership worth up to $812 million with Novo Nordisk.[271] Apertor's pivot led to a "breakthrough publication" demonstrating "incredible" platform value and delivering clinical candidates.[272] Information regarding portfolio companies' pivots were regularly reported to Rigmora in quarterly reports provided by ATP.[273]

And even if, arguendo, milestones were informative, Bogdanov's team—lacking scientific expertise—could not meaningfully assess whether milestones were missed or what any miss indicated about the companies' prospects. Rigmora did not staff anyone with a scientific background like that of Dr. Rimm, for example—whose post-hoc analysis of the missed milestones bore no connection in reality to the analysis that Rigmora actually conducted.[274]

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[270] Tr. (Robbins) 189:11–18.

[271] Harrison Dep. 330:16–331:11; JX-1583 (Robbins Rebuttal) ¶ 26.

[272] Tr. (Liras) 253:13–254:3.

[273] *Id.* 255:13–256:21; *see, e.g.*, *id.* 257:2–259:1, 260:18–264:9; JX-0560 at 11; JX-0824 at 2.

[274] *See* Tr. (Rimm) 443:9–20.

Third, Rigmora went nearly thirteen years without requesting information about information about milestones.[275] It was only when Rigmora needed a pretext to renege on obligations and a litigation strategy to defend its conduct that Rigmora's interest in milestones suddenly piqued.

Fourth**,** Rigmora's assertions that the preclinical companies all were missing milestones is counterfactual. Bogdanov's own analyst reported that Red Queen and Marlinspike had "actually achieved and were in line with their investment memo milestones."[276] When confronted with this evidence, Bogdanov could only characterize it as his analyst's "guess."[277] Indeed, Bogdanov admitted he "didn't know for sure" whether all companies had missed milestones and that Rigmora "missed information to assess their performance" for some companies.[278]

Rigmora cannot retroactively invalidate its obligation to fund budgets it already approved through selective milestone analysis. Tellingly, before May 2025, Rigmora never checked milestone status before funding capital calls on approved

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[275] Tr. (Bogdanov) 332:1–333:2.

[276] *See* JX-1285; Tr. (Bogdanov) 334:6–20.

[277] Tr. (Bogdanov) 334:9–10.

[278] *Id.* 333:14–18.

budgets.[279] This thirteen-year practice confirms the parties' shared understanding that investment memoranda milestones were not budget funding conditions.

D. Rigmora Breached Its Implied Duties To Consider Budgets In Good Faith, Honestly, And Rationally

Rigmora breached implied duties in its abuse of power when reviewing and denying the December 24 and Marengo budget requests.

1. Implied Duties Constrain Rigmora's Discretion to Deny Budgets

English and Cayman common law recognize that terms may be implied in a contract when "the term must be necessary either to spell out what is so obvious that it goes without saying or to give business efficacy to the contract."[280]

Following those principles, courts have recognized implied duties of good faith, rationality, and honesty.[281] In *Braganza v. BP Shipping Ltd*, the UK Supreme Court held that "where contractual terms gave one party to a contract the power to exercise a discretion or form an opinion as to relevant facts … the court would seek to ensure that the power was not abused by implying a term in appropriate cases."[282]

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[279] *Id.* 332:10–333:5.

[280] *USDAW v. Tesco Stores,* [2024] UKSC 28 at [102]; *see also Marks & Spencer v. BNP Paribas* [2015] UKSC 72 at [21]; *Primeo Fund (In Official Liquidation) v. Bank of Bermuda (Cayman) Ltd.*, [2017] (2) CILR 334 at [440]; *Cayman Shores v. Registrar of Lands*, [2021] (2) CILR 1 at [38].

[281] *See* JX-1574 (Bloch Opening) ¶¶ 49-51, 55 (collecting cases).

[282] [2015] UKSC 17, at Headnote, [18]-[19]; *see also id.* at [28]-[33] (discussing approach to implying terms).

The *Braganza* court identified key factors supporting implied constraints: (1) the existence of a discretionary power granted to one party; (2) that power's potential to adversely affect the other party's interests; and (3) a conflict of interest where the decision-maker could exercise the power to benefit themselves at the other party's expense.[283] When these factors align, courts will imply duties of good faith, honesty, and rationality to ensure the power is not exercised arbitrarily, capriciously, or perversely.[284]

Here, the LPA grants Rigmora budget approval authority—a power that directly affects the Fund's ability to function. In the circumstances of the budget approval process, the contracting parties' interests conflict.

(a) Constraints On Discretion To Deny Budgets Are "Necessary" For Business Efficacy

The LPA would not "work" as the parties intended without *some* fetters on Rigmora's discretionary decisions to approve or deny budgets.[285] Otherwise, Rigmora could unilaterally determine that the Fund would not invest in

[283] *Id.* at [18], [30].

[284] *Id.* at [30]–[31].

[285] JX-1574 (Bloch Opening) ¶ 40 ("whether to imply a term may depend on 'whether, without the implied term, the contract would work in the way the parties must reasonably have intended and expected it to work'") (quoting *Tesco*, at [105]).

biopharmaceutical companies; the GP could not manage the business decisions; the GP could not call capital; Rigmora could evade both contribution and default.

The structure, objects, and context of the LPA necessitate an implication of *Braganza* duties with respect to budgets. ***First***, the LPA should be understood to center on the sole purpose of the Fund: "to invest … in pharmaceutical medical device and other medically-related companies and business projects."[286] ***Second***, the LPA provides that "[t]he management, policies, and control of the affairs, and the conduct of business, of the Partnership shall be vested exclusively in the General Partner," LPA ¶ 2(b), which accords with the Cayman Exempt Limited Partnership Act ("ELPA").[287] ***Third***, through budgets, the LPA recognizes that Rigmora's capital contributions are essential to the Fund's business purpose. Budgets inform the scope of the investment Projects: the LPA establishes budgets as the gateway to initial investments and capital deployment by limiting the GP's right to call capital for Projects solely to those Projects that have approved budgets.[288] Accordingly, the LPA has long afforded Rigmora the right to approve budgets.[289] In Amendment 22, specifically, with the status of existing investments on the line, the parties agreed to

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286 JX-2 (LPA Am. 1) ¶ 1(c).

287 JX-1574 (Bloch Opening) ¶ 60.

288 JX-4 (LPA Am. 3) ¶ 5(a)(ii).

289 *Id.*; Background Part III.

"discuss" necessary funding and still follow the process set forth in Paragraph 5(a)(ii) or Schedule C.[290]

Without budget approvals, the Fund cannot maintain operations of existing portfolio companies or pursue new investment opportunities.[291] As ATP's expert Michael Bloch KC explains: "Were an unfettered right to decline to approve budgets to exist, the basic scheme of the LPA Am22 would lack coherence."[292]

The necessity for implied constraints is particularly acute given Amendment 22's "factual matrix." The parties executed Amendment 22 to settle litigation and enable continued operations. Paragraph 26 specifically requires the parties to "discuss new budgets" for named companies facing cash depletion "in accordance with the process set forth in this Agreement." This provision would be meaningless if Rigmora could refuse all budgets regardless of merit.

Further, if Rigmora could refuse to approve *any* budgets, it could circumvent its capital obligations and the default provisions to enforce those obligations, rendering the GP's management and the Fund's purpose nugatory. "Fetters" therefore must be implied.

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290 JX-1068 at 4 (LPA Am. 22).

291 *See* Plaintiff's Pre-Trial Brief at 1.

292 JX-1574 (Bloch Opening) ¶ 73.

(b) Implied Duties Are "Obvious" From The Contract's Structure

The express text of the LPA neither specifies nor precludes constraints on discretion. Perhaps unsurprisingly, no provision in the LPA expressly authorizes Rigmora to deny a budget arbitrarily, capriciously, or for ulterior motives that defeat the contract's purpose and spirit.

Though the parties did not expressly limit Rigmora's discretion, this Court can find that "notional reasonable people in the position of the parties at the time at which they were contracting" intended constraints or would have had they specifically considered them.[293] Commercial parties understand that long-term investment relationships require reasonable constraints on discretionary powers, and no commercial party would place their entire business purpose at the mercy of dishonest, arbitrary or irrational decision-making.[294] The Fund would become what Lord Neuberger called a "commercial nonsense" in *Arnold v Britton*—a structure where one party could unilaterally prevent the contract from achieving its fundamental purpose.[295] This alternative reveals the obviousness of the implied

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[293] *Marks & Spencer v. BNP Paribas*, [2015] UKSC 72 at [21] (quoted in JX-1574 (Bloch Opening) ¶ 37).

[294] *See Cayman Shores v. Registrar of Lands,* [2021 (2) CILR 1 at 88].

[295] *Arnold v. Britton*, [2015] UKSC 36 at [115] ("[W]here an ordinary reading of the contractual words produces commercial nonsense, the court will do its utmost to find a way to substitute a more likely alternative, using whichever interpretative technique is most appropriate to the particular task.").

constraints; truly unfettered discretions in a long-term investment structure would be so commercially unreasonable that no rational party would agree to it.

(c) Exclusion Of Fiduciary Duties Has No Effect On Contractual Duties

Rigmora's foreign law expert Mark Phillips KC incorrectly argues that the LPA does not require that Rigmora act in good faith, honestly, and rationally because Rigmora is a limited partner that owes no fiduciary duties.[296] This position misunderstands both the statute and nature of the implied obligations.

First, Section 19(2) provides that limited partners owe no "fiduciary duty" to the partnership or other partners. This statutory provision addresses the special obligations of loyalty and care that arise from fiduciary relationships; it does *not* purport to eliminate ordinary contractual duties that arise from an agreement itself.

Second, the duty to exercise contractual discretion honestly and rationally is not a fiduciary duty but a contractual one, arising from principles of contract interpretation rather than status-based obligations. As multiple authorities confirm, these contractual duties exist independently of fiduciary obligations. A party can owe contractual duties of good faith without owing fiduciary duties. *Braganza* itself involved employment contracts where no fiduciary relationship existed, yet the court implied constraints on discretionary powers.

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[296] *See, e.g.*, JX-1588(Phillips Opening) ¶¶ 44, 72-75.

Third, courts interpret statutes harmoniously with common law principles unless there is clear legislative intent to override them.[297] Nothing in the ELPA suggests the Cayman legislature intended to eliminate centuries-old principles of contract interpretation.

Finally, the result of Rigmora's argument is absurd: limited partners in Cayman ELPs would enjoy unlimited discretion in all contractual powers, able to exercise them dishonestly, irrationally, or in bad faith without recourse.[298]

2. Bogdanov's May 15 Email Was The Smoking Gun That Revealed Rigmora's Pattern Of Bad Faith, Dishonesty, Irrationality

The standard for rationality derives from administrative law's *Wednesbury* principles, requiring that the decision-maker: (1) consider relevant matters and exclude irrelevant ones from consideration; and (2) reach a decision that is not so unreasonable that no reasonable person acting reasonably could have reached it.[299]

The May 15 Email and the preceding conduct meet both prongs. ***First***, Rigmora considered irrelevant factors (backward-looking milestones that were never contractual requirements) while ignoring relevant ones (the companies' scientific progress, third-party interest, and forward-looking potential). Rigmora's

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[297] *See id.* ¶ 34 (quoting *Re Padma Fund LP* [2021 (2) CILR 556])

[298] *See* Phillips Dep. 92:7 – 97:19.

[299] *Associated Provincial Picture Houses Ltd v. Wednesbury Corp.* [1948] 1 KB 223.

admitted lack of scientific expertise to evaluate the companies certainly does not counter the apparent irrationality of the decision-making process. ***Second***, the decision to declare all seven scientifically diverse companies as having "no way for a path to commercial success" was so perverse that no reasonable person could have reached it.

Rigmora's breach of the duty of rationality and good faith includes its bad-faith treatment of the December 24 budget requests. Harrison submitted budget requests on December 24, 2024, for two clinical-stage companies facing near-term cash depletion—Aulos [redacted] Replicate ($11 million)—and the preclinical company Nine Square [redacted].[300] He also initiated the process for Ascidian, which would require discussion due to contingent variables. Despite Amendment 22's explicit requirement to "discuss" new budgets for these named companies "sufficient to enable them to operate for a period of twelve months," over months Rigmora subjected these requests to the same obstructionist treatment on bald display in the May 15 Email. **Aulos**, with lead assets in Phase 2 trials and developing partnerships with Pfizer and Regeneron, was denied funding despite Rybolovlev's own expression of "readiness in further financing."[301] **Ascidian,**

[300] Tr. (Harrison) 79:19–80:5; JX-1079.

[301] Tr. (Rybolovlev) 372:13–14.

developing treatment for childhood blindness with ongoing Phase 1/2 trials and a Roche partnership, faced an arbitrary yoking to liquidation of preclinicals. **Nine Square**, though lacking any remaining budget and therefore not on the May 15 liquidation list, was among the preclinicals sweepingly condemned as having "no way for a path to commercial success," but later secured a [redacted] term sheet from a major pharmaceutical company while operating with just three scientists.[302]

Rigmora violated *Braganza* duties with respect to the budget for **Marengo**, a clinical-stage immuno-oncology company with active partnerships with Ipsen and Gilead. Marengo's CEO presented directly to Rybolovlev and Bogdanov in March 2025, and Rybolovlev responded positively to the company's progress.[303] Yet Rigmora refused to approve any budget. Instead, in the May 15 Email, Bogdanov made approval for Marengo and other clinical companies contingent on ATP's agreement to "wind down or liquidate the Early-Stage Companies." This yoking of unrelated companies was irrational: Marengo's clinical progress and commercial prospects have no logical connection to the status of preclinical companies in different therapeutic areas. The only connection is the plan to "drastically" reduce payments to the Fund.

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[302] Tr. (Liras) 266:8–14.

[303] Tr. (Rybolovlev) 372:15-16.

3. Bogdanov's "Occupational Deformities" Undermine Any Claim to Rational Decision-Making

That irrational process was driven by Bogdanov, whose judgment was questionable even within Rigmora. When asked at his deposition whether he trusted Bogdanov, Rybolovlev equivocated, stating "That's a very wide question."[304] When pressed about whether Bogdanov was truthful in his dealings, Rybolovlev deflected, characterizing Bogdanov as having "occupational deformities" from his auditing background and describing him as having an extremely "conservative outlook."[305] Rybolovlev acknowledged "a cosmic, astronomical difference" between an auditor's risk tolerance and an entrepreneur's.[306] When asked directly whether there should be any difference when it comes to telling the truth, Rybolovlev responded: "As he sees it. As one of my friends said: Truth has many faces."[307]

Cayman law and the evidence support the conclusions that (1) implied duties constrain the budget approval discretion, and (2) Rigmora violated its implied duties to exercise its budget approval powers honestly, rationally, and in good faith. As Lady Hale explained in *Braganza*, this standard ensures that discretionary powers

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304 Rybolovlev Dep. 50:10–12.

305 *Id.* 50:16–25.

306 *Id.* 51:12–14.

307 *Id.* 51:15–18.

are exercised "in accordance with the purpose for which they were conferred."[308] The fate of these companies reflects not only flawed logic but also the dysfunction of allowing an untrusted auditor with "occupational deformities" and no biotech expertise to dictate investment decisions worth hundreds of millions of dollars with billions in potential.

The December 24 and Marengo budget requests should be deemed approved based on Rigmora's breach of its implied duties.

II. The Court Should Order Rigmora To Specifically Perform Its Capital Call And Approval Obligations

ATP seeks the equitable remedy of specific performance of Rigmora's obligations to fund capital calls for approved budgets and to consider the remaining December 2024 budget requests in good faith or deem them approved. This equitable relief is necessary to prevent the destruction of valuable scientific enterprises and potential life-saving therapies.

A. Specific Performance Is The Appropriate Remedy For Capital Calls

Specific performance is appropriate when (1) a valid contract exists, (2) the plaintiff is ready, willing, and able to perform, (3) money damages are inadequate,

[308] [2015] UKSC 17 at [31].

and (4) the balance of equities tips in the plaintiff's favor.[309] Those conditions are satisfied here.

Rigmora remains bound by outstanding capital commitments, and the May 30 Calls were validly called, triggering Rigmora's duty to perform. A valid contract—and a present contractual duty—exists. ATP is ready, willing, and able to manage the Fund's deployment of the due capital and oversee the Projects.

As discussed in Background Part XII, *supra*, the Fund has been harmed because the preclinical companies' development efforts have ground to a halt. Companies that had meaningful value before May 15, 2025, have lost a material portion of that value as a result of Rigmora's breach. They continue to lose value daily in amounts that are difficult to quantify.

The parties agree that money damages are inadequate. The LPA stipulates that damages for funding defaults "cannot be estimated with reasonable accuracy."[310] This acknowledgment reflects the unique nature of early-stage biotech ventures, where funding interruptions cause cascading and unquantifiable harm: loss of key scientific personnel, abandonment of ongoing trials, deterioration of research programs, forfeiture of intellectual property, and destruction of commercial

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[309] *26 Cap. Acq. Corp. v. Tiger Resort Asia Ltd.*, 309 A.3d 434, 464 (Del. Ch. 2023).

[310] JX-0001 at 25 (LPA ¶ 5(c)).

relationships. The portfolio companies have already suffered—terminating 70% of employees, abandoning facilities, and in one case, ceding valuable technology back to its source institution.

Moreover, the portfolio companies are developing treatments for serious medical conditions, including childhood blindness, various cancers, obesity, neurodegenerative diseases. The public interest strongly favors preserving potentially life-saving research programs.

The Court should order Rigmora to perform by funding the May 30 Calls totaling [redacted],[311] which represent six months of operating capital for companies with approved budgets plus Partnership expenses and the ATLS Fee. This relief is narrowly tailored, commercially reasonable, and necessary to prevent irreparable harm.[312]

B. Specific Performance Is The Appropriate Remedy For the Obligation to Consider Budgets

ATP's First Cause of Action is to compel performance with Rigmora's obligation to consider new portfolio company budgets, including specific performance "compelling [Rigmora] to consider reasonable budgets in good

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311 PTO ¶ 68.

312 *See W. Willow-Bay Ct., LLC v. Robino-Bay Ct. Plaza, LLC*, 2009 WL 458779, at *5 (Del. Ch. Feb. 23, 2009) ("A party may urge performance of the contract judicially by suing for specific performance[.]").

faith."[313] This is a well-established equitable remedy—Delaware courts routinely order specific performance of obligations to negotiate or consider matters in good faith.[314] Such relief is particularly appropriate where, as here, one party has demonstrated bad faith through obstructionist tactics to avoid its obligations.[315]

ATP also has asked the Court to fashion a more flexible, tailored remedy that would deem Rigmora to have waived its right to approve budgets and permit ATP to call capital for clinical-stage portfolio companies, subject to the [redacted] contingency set forth in Amendment 22.[316]

"Equitable remedies ... are distinguished by their flexibility, their unlimited variety, their adaptability to circumstances, and the natural rules which govern their use."[317] ATP asks the Court to "employ judicial principles and tools creatively so as

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[313] Compl. ¶ 164.

[314] *See BAE Sys. Info. & Elec. Sys. Integration v. Lockheed Martin Corp.*, 2009 WL 264088, at *5, 7 (Del. Ch. Feb. 3, 2009) (declining to dismiss claims that an agreement "require[d] the parties to 'meet together as necessary to coordinate their pursuit activities'"); *Great-West Invs. L.P. v. Thomas H. Lee P'rs L.P.*, 2011 WL 284992, at *9–10 (Del. Ch. Jan. 14, 2011) (denying dismissal of a claim for specific performance of a contract requirement to negotiate in good faith).

[315] *26 Cap.*, 309 A.3d at 473 ("When determining whether to award equitable relief, the court always considers the balance of the equities. That is true for specific performance as well.").

[316] Compl. ¶¶ 163–64.

[317] *In re Oxbow Carbon LLC Unitholder Litig.*, 2018 WL 3655257, at *3 (Del. Ch. Aug. 1, 2018), *vacated on other grounds*, 202 A.3d 482 (Del. 2019).

to effect justice."[318] This Court can provide "a more certain, prompt, complete, and efficient remedy than is available at law" because only specific performance or an equitable order authorizing ATP to invest in companies with budget requests foreclosed by Rigmora can salvage the Fund and the medical promise of its portfolio companies.[319]

Rigmora failed to engage in discussions in good faith, honestly, or rationally for Aulos, Ascidian, Nine Square, and Marengo. The December 24 budgets should be deemed approved and eligible for capital calls under Paragraph 5(a)(2). The Royalty Financing, though it may preclude a call once "approval … is given," does not preclude this relief.[320]

C. Rigmora's Defenses Fail

Rigmora cannot invoke the doctrine of unclean hands. ATP's—and the Fund's—conduct throughout has been transparent and accommodating: ATP provided extensive data rooms, arranged management presentations, proposed compromise reallocations, and attempted to work within Rigmora's stated constraints. That ATP ultimately sought judicial intervention when faced with

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[318] *Id.*

[319] *United BioSource LLC v. Bracket Hldg. Corp.*, 2017 WL 2256618, at *4 (Del. Ch. May 23, 2017).

[320] *See* JX-1068 at 4 (LPA Am. 22 ¶ 26) (introducing contingency once "any approval of a new budget is given by" Rigmora).

Rigmora's categorical refusal to fund does not constitute inequitable conduct; it represents the proper exercise of the GP's duty to protect the Fund.

III. The Global Default Provision Remains Intact And Applicable To Failures To Contribute Capital

Rigmora is incorrect that imposition of a Default Charge would be limited only to its interests in pools that retain Preferred Units and Investment Common Units.[321] At the time the Global Default Provision was written, all of the Fund's investments were tracked in terms of Preferred Units (reflecting capital contributed) and Investment Common Units (reflecting profit participation). There were no investments that were *not* based on the concept of units. Even Rigmora's own expert recognizes that "a subsequent change in the factual matrix which was not anticipated by the parties and was, on a true analysis, 'unthinkable' at the time they concluded their contract, can be taken into account and may justify construing that contract so as to accord with their original (assumed) intentions rather than conferring a wholly unjustified and fortuitous benefit on one of them."[322] Given that the Global Default Provision as originally written unequivocally applied to a Default relating to any investment, and there is no reason to think that the parties intended to change that

[321] *See* Blöchlinger Dep. 104:24–105:1.

[322] JX-1588 at 29 (Phillips Opening ¶ 58).

scope, the Global Default provision applies to all investments and pools, whether they involved units or not.

In compliance with the Cayman Order, with respect to the Global Default, ATP seeks only an order declaring that the Global Default provision governs defaults under the LPA.

IV. ATP Complied With the LPA By Bringing This Action

ATP's Count V requests that the Court declare that it did not violate the LPA in bringing this action.[323] ATP has not violated the LPA in bringing this action because (i) the LPA authorizes ATP to act within its discretion when a limited partner breaches, and (ii) ATP did not violate its duty of care.

A. ATP Is Authorized To Bring This Action

The LPA specifically requires that ATP, ***in its sole discretion***, take action in the face of a breaching limited partner.

Specifically, ATP has an obligation to obtain a "favorable result" for the Fund and other LPs when another LP breaches the LPA.[324] As discussed, Rigmora breached its obligations when it made clear it did not intend to meet its funding commitments and refused to approve new budgets.[325] ATP had an obligation to the

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[323] Dkt. 1.

[324] JX-0001 at 75 (LPA ¶ 18(g)(iv)); Tr. (Harrison) 112:2–113:2.

[325] Tr. (Harrison) 131:1–10.

Fund and other LPs to act, and the LPA gives ATP broad discretion to do so. Further, the LPA bars Rigmora from claiming that ATP violated its fiduciary duties for bringing such an action.[326]

Based on the LPA's plain language, ATP was within its rights as the GP to file this action in an attempt to obtain a favorable result for the Fund in response to Rigmora's breach, and it is Rigmora that breached its obligations by filing the Winding Up Petition. ATP requests a declaration that under Cayman law it complied with the LPA, including Paragraph 18(g)(iv), by bringing this action.

B. ATP Did Not Violate Its Fiduciary Duties in Bringing this Action

Even if the Court does not find that Rigmora breached the LPA, ATP still did not violate the LPA in bringing this action. Paragraph 2(g) of the LPA provides the standard of care for the general partner:

> To the fullest extent permitted by law, neither the General Partner nor any of its affiliates shall incur liability to the Partnership or any other Partner for any loss suffered by the Partnership or any other Partner which arises out of any … action or inaction on the part of the General Partner or any of its affiliates, provided that in any such case (i) the General Partner's or such affiliate's course of conduct was in good faith and (ii) such course of conduct did not constitute willful fraud, willful misconduct, gross negligence ***as determined under the laws of the State of Delaware*** without regard to otherwise governing principles of conflicts of law ("Gross Negligence") or an

[326] *Id.*

> intentional and material breach of this Agreement on the part of the General Partner or such affiliate.[327]

Under Delaware law, a determination of whether the general partner is acting in good faith is based on whether the general partner reasonably believed that their actions were in the best interest of the partnership.[328] "The general partner of a limited partnership owes fiduciary duties that run to the limited partnership for the benefit of the partners as a whole," so, generally, it need not believe that its actions serve the best interests of a specific limited partner—only the partnership.[329] Here, ATP "believe[d] that [it] had the right under the LPA to bring a lawsuit against an LP who had breached the LPA," and that there was "no possibility of a r[ap]pro[]ch[e]ment" or "of any kind of agreement" by the Rigmora LPs to live up to their capital commitments.[330] Accordingly, ATP filed this action in the face of significant loss for the Fund.[331] ATP is seeking to enforce the Fund's contractual rights and Rigmora's obligations to provide funding and approve budgets.

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[327] JX-0001 at 7 (LPA ¶ 2(g)) (emphasis added).

[328] *Brinkerhoff v. Enbridge Energy Co., Inc.*, 159 A.3d 242, 253-54 (Del. 2017); *see Allen v. El Paso Pipeline GP Co., LLC*, 113 A.3d 167, 178 (Del. Ch. 2014), *aff'd*, 2015 WL 803053 (Del. Feb. 26, 2015) (TABLE).

[329] *Leo Invs. Hong Kong Ltd. v. Tomales Bay Cap. Andurill III, L.P.*, 342 A.3d 1166, 1194–95 (Del. Ch. 2025).

[330] Tr. (Harrison) 112:2–5, 111:11–112:1.

[331] *Id.* 113:14–114:12.

In protecting the Fund's portfolio companies, ATP has not violated the standard of care through willful fraud, misconduct or gross negligence; Rigmora makes no allegations otherwise.[332] Rigmora asserts only that ATP had unclean hands because ATP refused "to provide information on the portfolio companies."[333] This is untrue, and even if it were true does not amount to willful misconduct or gross negligence.[334] Moreover, ATP routinely informed Rigmora of the portfolio companies' performance.[335]

Measured by standards of Delaware law, ATP is not in breach of its fiduciary obligations, nor has ATP violated the LPA in bringing this Action.

C. The Matter Is Ripe For Declaratory Judgment

Where a "dispute is live … not hypothetical; and no additional facts will develop to advance the dispute for better presentation to the Court," it "is ripe for judicial determination."[336] Here, the parties dispute whether ATP was authorized to bring this specific case, and no additional facts are needed to make that determination. Rigmora's posited authority is inapposite. *Schick Inc. v.*

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[332] Dkt. 57 at 96–99.

[333] *Id.* at 97.

[334] *See Metro Storage Int'l LLC v. Harron*, 275 A.3d 810, 844 (Del. Ch. 2022) ("gross negligence has its own special meaning that is akin to recklessness").

[335] *See, e.g.,* JX-1293 at 22, JX-1214 at 3, JX-1212 at 21.

[336] *Murfey v. WHC Ventures, LLC*, 2022 WL 214741, at *1 (Del. Ch. Jan. 25, 2022).

Amalgamated Clothing & Textile Workers Union involved declaratory judgment claims premised on "a premature ruling on … a derivative action that has not yet been filed."[337] Not so here. As Rigmora itself admits, ATP seeks a declaratory judgment that "the LPA's Exculpation Clause [a]pplies to the GP's [f]iling of *This Action*."[338]

CONCLUSION

ATP respectfully requests that the Court grant the relief requested in Plaintiff's Proposed Final Judgment.

[337] 533 A.2d 1235, 1237 (Del. Ch. 1987).

[338] Rigmora Pre-Trial Br. (Dkt. 203) at 55 (emphasis added).

/s/ Michael A. Barlow

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Dated: October 28, 2025

Attorneys for Plaintiff ATP III GP, Ltd.

17,886 / 18,000 WORDS

EXHIBIT M

SECURED PROMISSORY NOTE

$991,627.43

This Secured Promissory Note (this "**Note**"), dated as of June 11, 2025, is made and delivered by Apertor Pharmaceuticals, Inc. ("**Borrower**"), in favor of ATP Life Science Ventures, L.P. ("**Lender**").

FOR VALUE RECEIVED, and subject to the terms and conditions hereof, and in reliance upon Borrower's representations and warranties contained herein, Lender agrees to lend Borrower the initial sum of Six Hundred Ninety One Thousand, Six Hundred Twenty Seven and 43/100 dollars US ($691,627.43), plus such additional advances as Lender may agree to make not to exceed $991,627.43 in the aggregate, with interest thereon in accordance with the provisions set forth below, both principal and interest being payable in lawful funds via wire transfer to a bank account identified by Lender or as otherwise reasonably directed by Lender.

1. Maturity Date. If not sooner paid as indicated below, the outstanding principal balance and all accrued but unpaid interest under this Note shall be due and payable on demand (the "**Maturity Date**").

2. Interest. Interest shall accrue on this Note, from the date of this Note until the date this Note is paid in full, at the rate of eight percent (8%) per annum (the "**Note Rate**"). Interest shall be calculated on the basis of a 360-day year and actual days elapsed. Accrued but unpaid interest shall be compounded monthly and shall be payable in arrears on a quarterly basis at the end of each calendar quarter, with the first such payment due September 30, 2025 until this Note is paid in full.

3. Grant of Security Interest. Borrower hereby assigns to Lender, and hereby grants to Lender a security interest in, all of Borrower's right, title, and interest in the assets and property listed in Annex A (the "**Collateral**"), which secures all of Borrower's obligations under this Note (including, without limitation, payment of reasonable attorneys', advisers' and agents' fees, expenses, and disbursements of Lender) (collectively, the "**Secured Obligations**"). This Note secures, and the Collateral is collateral security for, due and punctual payment of the Secured Obligations when and as the same shall be due and payable. Borrower shall cooperate with Lender and execute and file any documentation or take any other actions requested by Lender to secure or perfect Lender's security interest in the Collateral, including, without limitation the filing of any UCC-1 financing statement. If Borrower fails to file any UCC-1 financing statement, Borrower hereby consents to Lender filing any UCC-1 financing statement and any amendment thereto with respect to the Collateral.

4. Prepayments. Borrower shall have the option to prepay any portion of the principal or accrued interest under this Note without prepayment penalty.

5. Defaults; Acceleration. The occurrence of any one or more of the following,

whatever the reason therefor, shall constitute an "**Event of Default**" hereunder:

(a) Borrower shall fail to pay when due any principal or interest on this Note; or

(b) Borrower shall fail to perform or observe any term, covenant or agreement contained in this Note or any Loan Document on its part to be performed or observed, other than the failure to make a payment covered by Section 5(a), and such failure shall continue uncured as of fifteen (15) calendar days after written notice of such failure is given by Lender to Borrower; provided, however, that if the default cannot be cured in fifteen (15) days but Borrower is diligently pursuing the cure, then Borrower shall have thirty (30) days after written notice to effect the cure; or

(c) any representation or warranty contained in any of the Loan Documents is incorrect in any material respect when made if Lender determines, in its reasonable discretion, that such condition materially adversely affects Borrower's ability to repay this Note; or

(d) Borrower is dissolved or liquidated, or otherwise ceases to exist, or all or substantially all of the assets of Borrower are sold or otherwise transferred without Lender's prior written consent; or

(e) Borrower is the subject of an order for relief by the bankruptcy court, or is unable or admits in writing its inability to pay its debts as they mature, or makes an assignment for the benefit of creditors; or Borrower applies for or consents to the appointment of any receiver, trustee, custodian, conservator, liquidator, rehabilitator or similar officer (the "**Receiver**"); or any Receiver is appointed without the application or consent of Borrower and the appointment continues undischarged or unstayed for sixty (60) calendar days; or Borrower institutes or consents to any bankruptcy, insolvency, reorganization, arrangement, readjustment of debt, dissolution, custodianship, conservatorship, liquidation, rehabilitation or similar proceedings relating to it or to all or any part of its property under the laws of any jurisdiction; or any similar proceeding is instituted without the consent of Borrower and continues undismissed or unstayed for sixty (60) calendar days.

6. Remedies. The Lender may demand repayment of the loan and all amounts evidenced by this Note at any time and from time to time. In such event, Lender may declare the entire principal balance of this Note then outstanding (if not then due and payable), all accrued but unpaid interest, and all other obligations of Borrower hereunder to be immediately due and payable. Subject to the applicable provisions of law, upon any such declaration, the principal of this Note, all accrued but unpaid interest, and all other amounts to be paid under this Note shall become and be immediately due and payable, anything in this Note or any other document or agreement entered into in connection with this Note (collectively, "**Loan Documents**") to the contrary notwithstanding. If an Event of Default specified in Section 5(e) occurs, the entire principal balance of this Note then outstanding (if not then due and payable), all accrued and unpaid interest, and all other obligations of Borrower shall become and be immediately due and payable without any declaration or other act on the part of Lender. Upon demand, Lender may exercise any and all rights

provided herein, in any Loan Document, by law or otherwise, including without limitation, without advertisement or notice of any kind to or upon Borrower or any other person (all and each of which advertisements and/or notices are hereby expressly waived), may forthwith collect, receive, appropriate and realize upon the Collateral, or any part thereof, and/or may forthwith sell, assign, give an option or options to purchase, contract to sell or otherwise dispose of (including the disposition by merger) and deliver such Collateral, or any part thereof, in one or more portions at public or private sale or sales or transactions, at any exchange, broker's board or at any of Lender's offices or elsewhere upon such terms and conditions as Lender may deem advisable (but in all cases in compliance with the terms and provisions of this Note) and at such prices as it may deem best, for any combination of cash and/or securities or other property or on credit or for future delivery without assumption of any credit risk, with the right to Lender upon any such sale or sales, public or private, to purchase the whole or any part of said Collateral so sold, free of any right or equity of redemption in Borrower, which right or equity is hereby expressly waived or released.

7. Late Charge. If any payment is not received in full by Lender within five (5) days following the due date of any payment (but not including any payment due on the Maturity Date or resulting from an acceleration of the amounts due under this Note), Borrower shall also pay to Lender a late charge in an amount equal to two percent (2.00%) of the amount of such overdue payment. For so long as any Event of Default exists under this Note or under any of the other Loan Documents, regardless of whether or not there has been an acceleration of the amounts due under the Loan Documents, and at all times after maturity (whether by acceleration or otherwise), and in addition to all other rights and remedies of Lender hereunder, interest shall accrue on the outstanding principal balance hereof at the Default Rate (as defined below), and such accrued interest shall be immediately due and payable. Borrower acknowledges that it would be extremely difficult or impracticable to determine Lender's actual damages resulting from any late payment or Event of Default, and such late charges and accrued interest are reasonable estimates of those damages and do not constitute a penalty.

8. Default Rate. From and after the Maturity Date or, if any Event of Default occurs, from the date the payment was due regardless of any cure period, through and including the date such default is cured, at the option of Lender hereof, the amount of the missed payment(s), or, if this Note has been accelerated, all amounts owing under this Note and all sums owing under all of the Loan Documents shall bear interest at a default rate equal to five percent (5.00%) per annum in excess of the Note Rate (the "**Default Rate**"). Such interest shall be paid on the first day of each month thereafter, or on demand if sooner demanded.

9. Waivers. Borrower waives any and all defenses to payment and collection under this Note. Borrower waives any right of offset it now has or may hereafter have against Lender hereof and its successors and assigns. Borrower waives presentment, demand, protest, notice of protest, notice of intent to accelerate, notice of acceleration, notice of nonpayment or dishonor and all other notices in connection with the delivery, acceptance, performance, default or enforcement of this Note. Borrower expressly agrees that no extension or delay in the time for payment or enforcement of this Note or any Loan Document, and no alteration, amendment, waiver, renewal, or substitution of this Note or any Loan Document, will in any way affect the liability of Borrower

hereunder. No delay on Lender's part in exercising any right hereunder or under any of the Loan Documents shall operate as a waiver. Lender's acceptance of partial or delinquent payments or the failure of Lender to exercise any rights shall not waive any obligation of Borrower or any right of Lender, or modify this Note, or waive any other similar default.

10. Costs of Collection. Borrower agrees to pay all costs of collection when incurred and all costs incurred by Lender hereof in exercising or preserving any rights or remedies in connection with the enforcement of this Note or following a default by Borrower, including, but not limited to, actual attorneys' fees. If any suit or action is instituted to enforce this Note, Borrower promises to pay, in addition to the costs and disbursements otherwise allowed by law, all court costs plus such sum as the court may adjudge reasonable attorneys' fees in such suit or action.

11. Usury. Borrower hereby represents that this loan is for commercial use and not for personal, family, or household purposes. It is the specific intent of Borrower and Lender that this Note bear a lawful rate of interest, and if any court of competent jurisdiction should determine that the rate herein provided for exceeds that which is statutorily permitted for the type of transaction evidenced hereby, the interest rate shall be reduced to the highest rate permitted by applicable law, with any excess interest theretofore collected being applied against principal or, if such principal has been fully repaid, returned to Borrower upon written demand.

12. Notices. All notices, requests and other communications hereunder must be in writing and shall be deemed to have been duly given only if delivered personally, by recognized overnight courier, or by email transmission or mailed (certified mail, return receipt requested) at the addresses set forth below. All such notices, requests and other communications shall (a) if delivered personally to the address as provided in this Section, be deemed given upon delivery; (b) if delivered by email to the email address as provided in this Section, be deemed given upon receipt (if received during business hours on a Business Day (as used in this Note, the term "**Business Day**" shall mean any day other than a Saturday, Sunday, or any day on which banks located in New York are authorized or obligated to close), otherwise the next Business Day); provided that the notice sent by email must be followed by notice sent by one of the other means of notice set forth in this Section 12; and (c) if delivered by mail or overnight courier in the manner described above to the address as provided in this Section, be deemed given upon receipt, or attempted delivery, if earlier (in each case regardless of whether such notice, request or other communication is received by any other Person to whom a copy of such notice, request or other communication is to be delivered pursuant to this Section). Any party from time to time may change such party's address, facsimile number or other information for the purpose of notices to that party by giving notice specifying such change to the other party.

If to Borrower: Apertor Pharmaceuticals, Inc.
Attn: Edmund Graziani
1640 S. Loop Rd., Suite 200
Alameda, CA 94502
Email: edmund@apertorpharma.com

With a copy to counsel:

Harold B. Murphy, Esq.
Andrew G. Lizotte, Esq.
Murphy & King, P.C.
28 State Street, Suite 3101
Boston, MA 02109

If to Lender:

ATP Life Science Venture, L.P.
Attn: Joseph A. Yanchik, III
245 Main Street, Floor 12
Cambridge, MA 02142
Email: jyanchik@appletreepartners.com

With a copy to counsel:

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New York, NY 10016
Email: danielholzman@quinnemanuel.com

13. Construction. This Note and all Loan Documents have been reviewed and negotiated by Borrower and Lender at arms' length with the benefit of or opportunity to seek the assistance of legal counsel and shall not be construed against any party. The titles and captions in this Note are inserted for convenience only and in no way define, limit, extend, or modify the scope of intent of this Note.

14. Partial Invalidity. If any section or provision of this Note is declared invalid or unenforceable by any court of competent jurisdiction, said determination shall not affect the validity or enforceability of the remaining terms hereof. No such determination in one jurisdiction shall affect any provision of this Note to the extent it is otherwise enforceable under the laws of any other applicable.

15. Governing Law; Jurisdiction. This Note shall be construed according to and governed by the laws of State of New York, without regard to its choice of law provisions that would result in the application of law of another jurisdiction. Borrower and Lender irrevocably submit to the exclusive jurisdiction of the federal and state courts located in New York, New York in any action or proceeding arising out of this Note, and covenant that any such action or proceeding

shall be brought only in such courts; provided that either Lender or Borrower shall be entitled to enforce any judgment relating to this Note in any court of competent jurisdiction. Borrower and Lender irrevocably waive, to the fullest extent permitted by law, any objection that they may now or hereafter have to the laying of the venue of or jurisdiction of any such action or proceeding brought in such courts and that any such action or proceeding brought in any such court has been brought in an inconvenient forum.

16. WAIVERS OF JURY TRIAL. EACH PARTY HERETO HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES TRIAL BY JURY IN ANY LEGAL ACTION OR PROCEEDING RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT AND FOR ANY COUNTERCLAIM HEREUNDER OR THEREUNDER.

17. Entire Agreement. This Note and the other instruments, statements or documents described herein constitute the entire agreement between Lender and Borrower, with any and all prior agreements and understandings being canceled and merged herein.

[***Signature Page Follows***]

IN WITNESS WHEREOF, Borrower and Lender have caused this Note to be signed as of the date first written above.

BORROWER:

Apertor Pharmaceuticals, Inc.,

By: DocuSigned by: Edmund Graziani 1E3D60C51EEA479...
Name: Edmund Graziani
Title: CEO

LENDER:

ATP Life Science Ventures, L.P.,

By: _____
Name:
Title:

ANNEX A

Description of Collateral

Collateral means all assets and personal property of the Borrower, including, without limitation, all of the following items, whether now owned or now due, or in which the Borrower has an interest or hereafter, at any time in the future, acquired, arising or to become due, or in which the Borrower obtains an interest, and all products, proceeds, replacements, substitutions and accessions of or to any of the following, which to the extent not defined below, shall have the meanings given to them under the Code:

A. all accounts and accounts receivable;

B. all inventory (including raw materials, work-in-process, finished goods and supplies);

C. all contract rights;

D. all general intangibles (including, without limitation, payment intangibles, software, trademarks, patents, copyrights, domain names or other intellectual property rights of the Borrower);

E. all equipment (including all machinery, furniture, and fixtures);

F. all farm products;

G. all goods;

H. all chattel paper (whether tangible or electronic);

I. all fixtures;

J. all investment property (including, without limitation, all financial assets, certificated and uncertificated securities, securities accounts and security entitlements);

K. all letter-of-credit rights;

L. all rights under judgments, all commercial tort claims, and choses in action;

M. all books, records and information relating to the Collateral and/or to the operation of the Borrower's business and all rights of access to such books, records and information and all property in which such books, records and information are stored, recorded and maintained;

N. all instruments, promissory notes, documents of title, documents, policies and certificates of insurance, securities, deposits, deposit accounts, money, cash or

other property;

O. all federal, state and local tax refunds and/or abatements to which the Borrower is or becomes entitled no matter how or when arising, including, but not limited to, any loss carryback tax refunds;

P. all insurance proceeds, refunds and premium rebates, including without limitation proceeds of fire and credit insurance, whether any of such proceeds, refunds and premium rebates arise out of any of the foregoing (A-O) or otherwise; and

Q. all liens, guaranties, rights, remedies and privileges pertaining to any of the foregoing (A-P), including the right of stoppage in transit.

EXHIBIT N

SECURED PROMISSORY NOTE

$700,000.00

This Secured Promissory Note (this "**Note**"), dated as of June 11, 2025, is made and delivered by Evercrisp Biosciences, Inc. ("**Borrower**"), in favor of ATP Life Science Ventures, L.P. ("**Lender**").

FOR VALUE RECEIVED, and subject to the terms and conditions hereof, and in reliance upon Borrower's representations and warranties contained herein, Lender agrees to lend Borrower the initial sum of Four Hundred Thousand dollars US ($400,000.00), plus such additional advances as Lender may agree to make not to exceed $700,000.00 in the aggregate, with interest thereon in accordance with the provisions set forth below, both principal and interest being payable in lawful funds via wire transfer to a bank account identified by Lender or as otherwise reasonably directed by Lender.

1. Maturity Date. If not sooner paid as indicated below, the outstanding principal balance and all accrued but unpaid interest under this Note shall be due and payable on demand (the "**Maturity Date**").

2. Interest. Interest shall accrue on this Note, from the date of this Note until the date this Note is paid in full, at the rate of eight percent (8%) per annum (the "**Note Rate**"). Interest shall be calculated on the basis of a 360-day year and actual days elapsed. Accrued but unpaid interest shall be compounded monthly and shall be payable in arrears on a quarterly basis at the end of each calendar quarter, with the first such payment due September 30, 2025 until this Note is paid in full.

3. Grant of Security Interest. Borrower hereby assigns to Lender, and hereby grants to Lender a security interest in, all of Borrower's right, title, and interest in the assets and property listed in Annex A (the "**Collateral**"), which secures all of Borrower's obligations under this Note (including, without limitation, payment of reasonable attorneys', advisers' and agents' fees, expenses, and disbursements of Lender) (collectively, the "**Secured Obligations**"). This Note secures, and the Collateral is collateral security for, due and punctual payment of the Secured Obligations when and as the same shall be due and payable. Borrower shall cooperate with Lender and execute and file any documentation or take any other actions requested by Lender to secure or perfect Lender's security interest in the Collateral, including, without limitation the filing of any UCC-1 financing statement. If Borrower fails to file any UCC-1 financing statement, Borrower hereby consents to Lender filing any UCC-1 financing statement and any amendment thereto with respect to the Collateral.

4. Prepayments. Borrower shall have the option to prepay any portion of the principal or accrued interest under this Note without prepayment penalty.

5. Defaults; Acceleration. The occurrence of any one or more of the following,

whatever the reason therefor, shall constitute an "**Event of Default**" hereunder:

(a) Borrower shall fail to pay when due any principal or interest on this Note; or

(b) Borrower shall fail to perform or observe any term, covenant or agreement contained in this Note or any Loan Document on its part to be performed or observed, other than the failure to make a payment covered by Section 5(a), and such failure shall continue uncured as of fifteen (15) calendar days after written notice of such failure is given by Lender to Borrower; provided, however, that if the default cannot be cured in fifteen (15) days but Borrower is diligently pursuing the cure, then Borrower shall have thirty (30) days after written notice to effect the cure; or

(c) any representation or warranty contained in any of the Loan Documents is incorrect in any material respect when made if Lender determines, in its reasonable discretion, that such condition materially adversely affects Borrower's ability to repay this Note; or

(d) Borrower is dissolved or liquidated, or otherwise ceases to exist, or all or substantially all of the assets of Borrower are sold or otherwise transferred without Lender's prior written consent; or

(e) Borrower is the subject of an order for relief by the bankruptcy court, or is unable or admits in writing its inability to pay its debts as they mature, or makes an assignment for the benefit of creditors; or Borrower applies for or consents to the appointment of any receiver, trustee, custodian, conservator, liquidator, rehabilitator or similar officer (the "**Receiver**"); or any Receiver is appointed without the application or consent of Borrower and the appointment continues undischarged or unstayed for sixty (60) calendar days; or Borrower institutes or consents to any bankruptcy, insolvency, reorganization, arrangement, readjustment of debt, dissolution, custodianship, conservatorship, liquidation, rehabilitation or similar proceedings relating to it or to all or any part of its property under the laws of any jurisdiction; or any similar proceeding is instituted without the consent of Borrower and continues undismissed or unstayed for sixty (60) calendar days.

6. Remedies. The Lender may demand repayment of the loan and all amounts evidenced by this Note at any time and from time to time. In such event, Lender may declare the entire principal balance of this Note then outstanding (if not then due and payable), all accrued but unpaid interest, and all other obligations of Borrower hereunder to be immediately due and payable. Subject to the applicable provisions of law, upon any such declaration, the principal of this Note, all accrued but unpaid interest, and all other amounts to be paid under this Note shall become and be immediately due and payable, anything in this Note or any other document or agreement entered into in connection with this Note (collectively, "**Loan Documents**") to the contrary notwithstanding. If an Event of Default specified in Section 5(e) occurs, the entire principal balance of this Note then outstanding (if not then due and payable), all accrued and unpaid interest, and all other obligations of Borrower shall become and be immediately due and payable without any declaration or other act on the part of Lender. Upon demand, Lender may exercise any and all rights

provided herein, in any Loan Document, by law or otherwise, including without limitation, without advertisement or notice of any kind to or upon Borrower or any other person (all and each of which advertisements and/or notices are hereby expressly waived), may forthwith collect, receive, appropriate and realize upon the Collateral, or any part thereof, and/or may forthwith sell, assign, give an option or options to purchase, contract to sell or otherwise dispose of (including the disposition by merger) and deliver such Collateral, or any part thereof, in one or more portions at public or private sale or sales or transactions, at any exchange, broker's board or at any of Lender's offices or elsewhere upon such terms and conditions as Lender may deem advisable (but in all cases in compliance with the terms and provisions of this Note) and at such prices as it may deem best, for any combination of cash and/or securities or other property or on credit or for future delivery without assumption of any credit risk, with the right to Lender upon any such sale or sales, public or private, to purchase the whole or any part of said Collateral so sold, free of any right or equity of redemption in Borrower, which right or equity is hereby expressly waived or released.

7. Late Charge. If any payment is not received in full by Lender within five (5) days following the due date of any payment (but not including any payment due on the Maturity Date or resulting from an acceleration of the amounts due under this Note), Borrower shall also pay to Lender a late charge in an amount equal to two percent (2.00%) of the amount of such overdue payment. For so long as any Event of Default exists under this Note or under any of the other Loan Documents, regardless of whether or not there has been an acceleration of the amounts due under the Loan Documents, and at all times after maturity (whether by acceleration or otherwise), and in addition to all other rights and remedies of Lender hereunder, interest shall accrue on the outstanding principal balance hereof at the Default Rate (as defined below), and such accrued interest shall be immediately due and payable. Borrower acknowledges that it would be extremely difficult or impracticable to determine Lender's actual damages resulting from any late payment or Event of Default, and such late charges and accrued interest are reasonable estimates of those damages and do not constitute a penalty.

8. Default Rate. From and after the Maturity Date or, if any Event of Default occurs, from the date the payment was due regardless of any cure period, through and including the date such default is cured, at the option of Lender hereof, the amount of the missed payment(s), or, if this Note has been accelerated, all amounts owing under this Note and all sums owing under all of the Loan Documents shall bear interest at a default rate equal to five percent (5.00%) per annum in excess of the Note Rate (the "**Default Rate**"). Such interest shall be paid on the first day of each month thereafter, or on demand if sooner demanded.

9. Waivers. Borrower waives any and all defenses to payment and collection under this Note. Borrower waives any right of offset it now has or may hereafter have against Lender hereof and its successors and assigns. Borrower waives presentment, demand, protest, notice of protest, notice of intent to accelerate, notice of acceleration, notice of nonpayment or dishonor and all other notices in connection with the delivery, acceptance, performance, default or enforcement of this Note. Borrower expressly agrees that no extension or delay in the time for payment or enforcement of this Note or any Loan Document, and no alteration, amendment, waiver, renewal, or substitution of this Note or any Loan Document, will in any way affect the liability of Borrower

hereunder. No delay on Lender's part in exercising any right hereunder or under any of the Loan Documents shall operate as a waiver. Lender's acceptance of partial or delinquent payments or the failure of Lender to exercise any rights shall not waive any obligation of Borrower or any right of Lender, or modify this Note, or waive any other similar default.

10. Costs of Collection. Borrower agrees to pay all costs of collection when incurred and all costs incurred by Lender hereof in exercising or preserving any rights or remedies in connection with the enforcement of this Note or following a default by Borrower, including, but not limited to, actual attorneys' fees. If any suit or action is instituted to enforce this Note, Borrower promises to pay, in addition to the costs and disbursements otherwise allowed by law, all court costs plus such sum as the court may adjudge reasonable attorneys' fees in such suit or action.

11. Usury. Borrower hereby represents that this loan is for commercial use and not for personal, family, or household purposes. It is the specific intent of Borrower and Lender that this Note bear a lawful rate of interest, and if any court of competent jurisdiction should determine that the rate herein provided for exceeds that which is statutorily permitted for the type of transaction evidenced hereby, the interest rate shall be reduced to the highest rate permitted by applicable law, with any excess interest theretofore collected being applied against principal or, if such principal has been fully repaid, returned to Borrower upon written demand.

12. Notices. All notices, requests and other communications hereunder must be in writing and shall be deemed to have been duly given only if delivered personally, by recognized overnight courier, or by email transmission or mailed (certified mail, return receipt requested) at the addresses set forth below. All such notices, requests and other communications shall (a) if delivered personally to the address as provided in this Section, be deemed given upon delivery; (b) if delivered by email to the email address as provided in this Section, be deemed given upon receipt (if received during business hours on a Business Day (as used in this Note, the term "**Business Day**" shall mean any day other than a Saturday, Sunday, or any day on which banks located in New York are authorized or obligated to close), otherwise the next Business Day); provided that the notice sent by email must be followed by notice sent by one of the other means of notice set forth in this Section 12; and (c) if delivered by mail or overnight courier in the manner described above to the address as provided in this Section, be deemed given upon receipt, or attempted delivery, if earlier (in each case regardless of whether such notice, request or other communication is received by any other Person to whom a copy of such notice, request or other communication is to be delivered pursuant to this Section). Any party from time to time may change such party's address, facsimile number or other information for the purpose of notices to that party by giving notice specifying such change to the other party.

If to Borrower: Evercrisp Biosciences, Inc.
Attn: Meenu Chhabra Karson
651 Gateway Blvd.
South San Francisco, CA 94080
Email: mkarson@evercrispbio.com

With a copy to counsel:

Harold B. Murphy, Esq.
Andrew G. Lizotte, Esq.
Murphy & King, P.C.
28 State Street, Suite 3101
Boston, MA 02109

If to Lender:

ATP Life Science Venture, L.P.
Attn: Joseph A. Yanchik, III
245 Main Street, Floor 12
Cambridge, MA 02142
Email: jyanchik@appletreepartners.com

With a copy to counsel:

Eric Winston, Esq.
Quinn Emanuel Urquhart & Sullivan, LLP
865 S. Figueroa Street, 10th Floor
Los Angeles, CA 90017
Email: ericwinston@quinnemanuel.com

Daniel Holzman, Esq.
Quinn Emanuel Urquhart & Sullivan, LLP
295 Fifth Avenue, 9th Floor
New York, NY 10016
Email: danielholzman@quinnemanuel.com

13. Construction. This Note and all Loan Documents have been reviewed and negotiated by Borrower and Lender at arms' length with the benefit of or opportunity to seek the assistance of legal counsel and shall not be construed against any party. The titles and captions in this Note are inserted for convenience only and in no way define, limit, extend, or modify the scope of intent of this Note.

14. Partial Invalidity. If any section or provision of this Note is declared invalid or unenforceable by any court of competent jurisdiction, said determination shall not affect the validity or enforceability of the remaining terms hereof. No such determination in one jurisdiction shall affect any provision of this Note to the extent it is otherwise enforceable under the laws of any other applicable.

15. Governing Law; Jurisdiction. This Note shall be construed according to and governed by the laws of State of New York, without regard to its choice of law provisions that would result in the application of law of another jurisdiction. Borrower and Lender irrevocably submit to the exclusive jurisdiction of the federal and state courts located in New York, New York in any action or proceeding arising out of this Note, and covenant that any such action or proceeding

shall be brought only in such courts; provided that either Lender or Borrower shall be entitled to enforce any judgment relating to this Note in any court of competent jurisdiction. Borrower and Lender irrevocably waive, to the fullest extent permitted by law, any objection that they may now or hereafter have to the laying of the venue of or jurisdiction of any such action or proceeding brought in such courts and that any such action or proceeding brought in any such court has been brought in an inconvenient forum.

16. WAIVERS OF JURY TRIAL. EACH PARTY HERETO HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES TRIAL BY JURY IN ANY LEGAL ACTION OR PROCEEDING RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT AND FOR ANY COUNTERCLAIM HEREUNDER OR THEREUNDER.

17. Entire Agreement. This Note and the other instruments, statements or documents described herein constitute the entire agreement between Lender and Borrower, with any and all prior agreements and understandings being canceled and merged herein.

[***Signature Page Follows***]

IN WITNESS WHEREOF, Borrower and Lender have caused this Note to be signed as of the date first written above.

BORROWER:

Evercrisp Biosciences, Inc.,

By: Signed by: Meenu Chhabra Karson 8318E13DE1D148D...

Name: Meenu Chhabra Karson

Title: CEO

LENDER:

ATP Life Science Ventures, L.P.,

By: _____

Name:

Title:

ANNEX A

Description of Collateral

Collateral means all assets and personal property of the Borrower, including, without limitation, all of the following items, whether now owned or now due, or in which the Borrower has an interest or hereafter, at any time in the future, acquired, arising or to become due, or in which the Borrower obtains an interest, and all products, proceeds, replacements, substitutions and accessions of or to any of the following, which to the extent not defined below, shall have the meanings given to them under the Code:

A. all accounts and accounts receivable;

B. all inventory (including raw materials, work-in-process, finished goods and supplies);

C. all contract rights;

D. all general intangibles (including, without limitation, payment intangibles, software, trademarks, patents, copyrights, domain names or other intellectual property rights of the Borrower);

E. all equipment (including all machinery, furniture, and fixtures);

F. all farm products;

G. all goods;

H. all chattel paper (whether tangible or electronic);

I. all fixtures;

J. all investment property (including, without limitation, all financial assets, certificated and uncertificated securities, securities accounts and security entitlements);

K. all letter-of-credit rights;

L. all rights under judgments, all commercial tort claims, and choses in action;

M. all books, records and information relating to the Collateral and/or to the operation of the Borrower's business and all rights of access to such books, records and information and all property in which such books, records and information are stored, recorded and maintained;

N. all instruments, promissory notes, documents of title, documents, policies and certificates of insurance, securities, deposits, deposit accounts, money, cash or

other property;

O. all federal, state and local tax refunds and/or abatements to which the Borrower is or becomes entitled no matter how or when arising, including, but not limited to, any loss carryback tax refunds;

P. all insurance proceeds, refunds and premium rebates, including without limitation proceeds of fire and credit insurance, whether any of such proceeds, refunds and premium rebates arise out of any of the foregoing (A-O) or otherwise; and

Q. all liens, guaranties, rights, remedies and privileges pertaining to any of the foregoing (A-P), including the right of stoppage in transit.

EXHIBIT O

FIRST AMENDMENT TO SECURED PROMISSORY NOTE

This First Amendment, dated as of July 24, 2025, to Secured Promissory Note, dated as of June 11, 2025 ("**Note**"), is made and delivered by Initial Therapeutics, Inc. ("**Borrower**"), in favor of ATP Life Science Ventures, L.P. ("**Lender**").

WHEREAS, Borrower and Lender have agreed to amend the Note to increase the amount of aggregate advances that Lender may agree to make;

NOW THEREFORE, in consideration of these presents and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Borrower and Lender agree as follows:

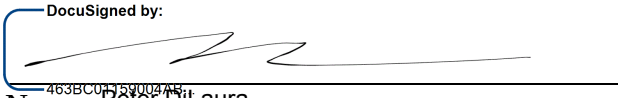
1. Advances. Wherever the amount "$530,000.00" appears in the Note, such amount shall be stricken and replaced with the amount "$1,030,000.00".

2. The Note, as amended hereby, is ratified in all respects, and all terms and provisions of the Note shall remain in full force and effect.

IN WITNESS WHEREOF, Borrower and Lender have caused this Note to be signed as of the date first written above.

BORROWER:

Initial Therapeutics, Inc.

By: DocuSigned by:  463BC0315900AAB...
Name: Peter DiLaura
Title: CEO

LENDER:

ATP Life Science Ventures, L.P.

By: _____
Name:
Title:

EXHIBIT P

SECURED PROMISSORY NOTE

$537,500.00

This Secured Promissory Note (this "**Note**"), dated as of June 11, 2025, is made and delivered by Marlinspike Therapeutics, Inc. ("**Borrower**"), in favor of ATP Life Science Ventures, L.P. ("**Lender**").

FOR VALUE RECEIVED, and subject to the terms and conditions hereof, and in reliance upon Borrower's representations and warranties contained herein, Lender agrees to lend Borrower the initial sum of Two Hundred Thirty Seven Thousand Five Hundred dollars US ($237,500.00), plus such additional advances as Lender may agree to make not to exceed $537,500.00 in the aggregate, with interest thereon in accordance with the provisions set forth below, both principal and interest being payable in lawful funds via wire transfer to a bank account identified by Lender or as otherwise reasonably directed by Lender.

1. Maturity Date. If not sooner paid as indicated below, the outstanding principal balance and all accrued but unpaid interest under this Note shall be due and payable on demand (the "**Maturity Date**").

2. Interest. Interest shall accrue on this Note, from the date of this Note until the date this Note is paid in full, at the rate of eight percent (8%) per annum (the "**Note Rate**"). Interest shall be calculated on the basis of a 360-day year and actual days elapsed. Accrued but unpaid interest shall be compounded monthly and shall be payable in arrears on a quarterly basis at the end of each calendar quarter, with the first such payment due September 30, 2025 until this Note is paid in full.

3. Grant of Security Interest. Borrower hereby assigns to Lender, and hereby grants to Lender a security interest in, all of Borrower's right, title, and interest in the assets and property listed in Annex A (the "**Collateral**"), which secures all of Borrower's obligations under this Note (including, without limitation, payment of reasonable attorneys', advisers' and agents' fees, expenses, and disbursements of Lender) (collectively, the "**Secured Obligations**"). This Note secures, and the Collateral is collateral security for, due and punctual payment of the Secured Obligations when and as the same shall be due and payable. Borrower shall cooperate with Lender and execute and file any documentation or take any other actions requested by Lender to secure or perfect Lender's security interest in the Collateral, including, without limitation the filing of any UCC-1 financing statement. If Borrower fails to file any UCC-1 financing statement, Borrower hereby consents to Lender filing any UCC-1 financing statement and any amendment thereto with respect to the Collateral.

4. Prepayments. Borrower shall have the option to prepay any portion of the principal or accrued interest under this Note without prepayment penalty.

5. Defaults; Acceleration. The occurrence of any one or more of the following,

whatever the reason therefor, shall constitute an "**Event of Default**" hereunder:

(a) Borrower shall fail to pay when due any principal or interest on this Note; or

(b) Borrower shall fail to perform or observe any term, covenant or agreement contained in this Note or any Loan Document on its part to be performed or observed, other than the failure to make a payment covered by Section 5(a), and such failure shall continue uncured as of fifteen (15) calendar days after written notice of such failure is given by Lender to Borrower; provided, however, that if the default cannot be cured in fifteen (15) days but Borrower is diligently pursuing the cure, then Borrower shall have thirty (30) days after written notice to effect the cure; or

(c) any representation or warranty contained in any of the Loan Documents is incorrect in any material respect when made if Lender determines, in its reasonable discretion, that such condition materially adversely affects Borrower's ability to repay this Note; or

(d) Borrower is dissolved or liquidated, or otherwise ceases to exist, or all or substantially all of the assets of Borrower are sold or otherwise transferred without Lender's prior written consent; or

(e) Borrower is the subject of an order for relief by the bankruptcy court, or is unable or admits in writing its inability to pay its debts as they mature, or makes an assignment for the benefit of creditors; or Borrower applies for or consents to the appointment of any receiver, trustee, custodian, conservator, liquidator, rehabilitator or similar officer (the "**Receiver**"); or any Receiver is appointed without the application or consent of Borrower and the appointment continues undischarged or unstayed for sixty (60) calendar days; or Borrower institutes or consents to any bankruptcy, insolvency, reorganization, arrangement, readjustment of debt, dissolution, custodianship, conservatorship, liquidation, rehabilitation or similar proceedings relating to it or to all or any part of its property under the laws of any jurisdiction; or any similar proceeding is instituted without the consent of Borrower and continues undismissed or unstayed for sixty (60) calendar days.

6. Remedies. The Lender may demand repayment of the loan and all amounts evidenced by this Note at any time and from time to time. In such event, Lender may declare the entire principal balance of this Note then outstanding (if not then due and payable), all accrued but unpaid interest, and all other obligations of Borrower hereunder to be immediately due and payable. Subject to the applicable provisions of law, upon any such declaration, the principal of this Note, all accrued but unpaid interest, and all other amounts to be paid under this Note shall become and be immediately due and payable, anything in this Note or any other document or agreement entered into in connection with this Note (collectively, "**Loan Documents**") to the contrary notwithstanding. If an Event of Default specified in Section 5(e) occurs, the entire principal balance of this Note then outstanding (if not then due and payable), all accrued and unpaid interest, and all other obligations of Borrower shall become and be immediately due and payable without any declaration or other act on the part of Lender. Upon demand, Lender may exercise any and all rights

provided herein, in any Loan Document, by law or otherwise, including without limitation, without advertisement or notice of any kind to or upon Borrower or any other person (all and each of which advertisements and/or notices are hereby expressly waived), may forthwith collect, receive, appropriate and realize upon the Collateral, or any part thereof, and/or may forthwith sell, assign, give an option or options to purchase, contract to sell or otherwise dispose of (including the disposition by merger) and deliver such Collateral, or any part thereof, in one or more portions at public or private sale or sales or transactions, at any exchange, broker's board or at any of Lender's offices or elsewhere upon such terms and conditions as Lender may deem advisable (but in all cases in compliance with the terms and provisions of this Note) and at such prices as it may deem best, for any combination of cash and/or securities or other property or on credit or for future delivery without assumption of any credit risk, with the right to Lender upon any such sale or sales, public or private, to purchase the whole or any part of said Collateral so sold, free of any right or equity of redemption in Borrower, which right or equity is hereby expressly waived or released.

7. Late Charge. If any payment is not received in full by Lender within five (5) days following the due date of any payment (but not including any payment due on the Maturity Date or resulting from an acceleration of the amounts due under this Note), Borrower shall also pay to Lender a late charge in an amount equal to two percent (2.00%) of the amount of such overdue payment. For so long as any Event of Default exists under this Note or under any of the other Loan Documents, regardless of whether or not there has been an acceleration of the amounts due under the Loan Documents, and at all times after maturity (whether by acceleration or otherwise), and in addition to all other rights and remedies of Lender hereunder, interest shall accrue on the outstanding principal balance hereof at the Default Rate (as defined below), and such accrued interest shall be immediately due and payable. Borrower acknowledges that it would be extremely difficult or impracticable to determine Lender's actual damages resulting from any late payment or Event of Default, and such late charges and accrued interest are reasonable estimates of those damages and do not constitute a penalty.

8. Default Rate. From and after the Maturity Date or, if any Event of Default occurs, from the date the payment was due regardless of any cure period, through and including the date such default is cured, at the option of Lender hereof, the amount of the missed payment(s), or, if this Note has been accelerated, all amounts owing under this Note and all sums owing under all of the Loan Documents shall bear interest at a default rate equal to five percent (5.00%) per annum in excess of the Note Rate (the "**Default Rate**"). Such interest shall be paid on the first day of each month thereafter, or on demand if sooner demanded.

9. Waivers. Borrower waives any and all defenses to payment and collection under this Note. Borrower waives any right of offset it now has or may hereafter have against Lender hereof and its successors and assigns. Borrower waives presentment, demand, protest, notice of protest, notice of intent to accelerate, notice of acceleration, notice of nonpayment or dishonor and all other notices in connection with the delivery, acceptance, performance, default or enforcement of this Note. Borrower expressly agrees that no extension or delay in the time for payment or enforcement of this Note or any Loan Document, and no alteration, amendment, waiver, renewal, or substitution of this Note or any Loan Document, will in any way affect the liability of Borrower

hereunder. No delay on Lender's part in exercising any right hereunder or under any of the Loan Documents shall operate as a waiver. Lender's acceptance of partial or delinquent payments or the failure of Lender to exercise any rights shall not waive any obligation of Borrower or any right of Lender, or modify this Note, or waive any other similar default.

10. Costs of Collection. Borrower agrees to pay all costs of collection when incurred and all costs incurred by Lender hereof in exercising or preserving any rights or remedies in connection with the enforcement of this Note or following a default by Borrower, including, but not limited to, actual attorneys' fees. If any suit or action is instituted to enforce this Note, Borrower promises to pay, in addition to the costs and disbursements otherwise allowed by law, all court costs plus such sum as the court may adjudge reasonable attorneys' fees in such suit or action.

11. Usury. Borrower hereby represents that this loan is for commercial use and not for personal, family, or household purposes. It is the specific intent of Borrower and Lender that this Note bear a lawful rate of interest, and if any court of competent jurisdiction should determine that the rate herein provided for exceeds that which is statutorily permitted for the type of transaction evidenced hereby, the interest rate shall be reduced to the highest rate permitted by applicable law, with any excess interest theretofore collected being applied against principal or, if such principal has been fully repaid, returned to Borrower upon written demand.

12. Notices. All notices, requests and other communications hereunder must be in writing and shall be deemed to have been duly given only if delivered personally, by recognized overnight courier, or by email transmission or mailed (certified mail, return receipt requested) at the addresses set forth below. All such notices, requests and other communications shall (a) if delivered personally to the address as provided in this Section, be deemed given upon delivery; (b) if delivered by email to the email address as provided in this Section, be deemed given upon receipt (if received during business hours on a Business Day (as used in this Note, the term "**Business Day**" shall mean any day other than a Saturday, Sunday, or any day on which banks located in New York are authorized or obligated to close), otherwise the next Business Day); provided that the notice sent by email must be followed by notice sent by one of the other means of notice set forth in this Section 12; and (c) if delivered by mail or overnight courier in the manner described above to the address as provided in this Section, be deemed given upon receipt, or attempted delivery, if earlier (in each case regardless of whether such notice, request or other communication is received by any other Person to whom a copy of such notice, request or other communication is to be delivered pursuant to this Section). Any party from time to time may change such party's address, facsimile number or other information for the purpose of notices to that party by giving notice specifying such change to the other party.

If to Borrower: Marlinspike Therapeutics, Inc.
Attn: Paul DaSilva Jardine
150 Cambridgepark Drive, 8th Floor
Cambridge, MA 02140
Email: pjardine@appletreepartners.com

With a copy to counsel:

Harold B. Murphy, Esq.
Andrew G. Lizotte, Esq.
Murphy & King, P.C.
28 State Street, Suite 3101
Boston, MA 02109

If to Lender:

ATP Life Science Ventures, L.P.
Attn: Joseph A. Yanchik, III
245 Main Street, Floor 12
Cambridge, MA 02142
Email: jyanchik@appletreepartners.com

With a copy to counsel:

Eric Winston, Esq.
Quinn Emanuel Urquhart & Sullivan, LLP
865 S. Figueroa Street, 10th Floor
Los Angeles, CA 90017
Email: ericwinston@quinnemanuel.com

Daniel Holzman, Esq.
Quinn Emanuel Urquhart & Sullivan, LLP
295 Fifth Avenue, 9th Floor
New York, NY 10016
Email: danielholzman@quinnemanuel.com

13. Construction. This Note and all Loan Documents have been reviewed and negotiated by Borrower and Lender at arms' length with the benefit of or opportunity to seek the assistance of legal counsel and shall not be construed against any party. The titles and captions in this Note are inserted for convenience only and in no way define, limit, extend, or modify the scope of intent of this Note.

14. Partial Invalidity. If any section or provision of this Note is declared invalid or unenforceable by any court of competent jurisdiction, said determination shall not affect the validity or enforceability of the remaining terms hereof. No such determination in one jurisdiction shall affect any provision of this Note to the extent it is otherwise enforceable under the laws of any other applicable.

15. Governing Law; Jurisdiction. This Note shall be construed according to and governed by the laws of State of New York, without regard to its choice of law provisions that would result in the application of law of another jurisdiction. Borrower and Lender irrevocably submit to the exclusive jurisdiction of the federal and state courts located in New York, New York in any action or proceeding arising out of this Note, and covenant that any such action or proceeding

shall be brought only in such courts; provided that either Lender or Borrower shall be entitled to enforce any judgment relating to this Note in any court of competent jurisdiction. Borrower and Lender irrevocably waive, to the fullest extent permitted by law, any objection that they may now or hereafter have to the laying of the venue of or jurisdiction of any such action or proceeding brought in such courts and that any such action or proceeding brought in any such court has been brought in an inconvenient forum.

16. WAIVERS OF JURY TRIAL. EACH PARTY HERETO HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES TRIAL BY JURY IN ANY LEGAL ACTION OR PROCEEDING RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT AND FOR ANY COUNTERCLAIM HEREUNDER OR THEREUNDER.

17. Entire Agreement. This Note and the other instruments, statements or documents described herein constitute the entire agreement between Lender and Borrower, with any and all prior agreements and understandings being canceled and merged herein.

[***Signature Page Follows***]

IN WITNESS WHEREOF, Borrower and Lender have caused this Note to be signed as of the date first written above.

BORROWER:

Marlinspike Therapeutics, Inc.,

By: Paul Da Silva Jardine
Name: Paul Da Silva Jardine
Title: CEO

LENDER:

ATP Life Science Ventures, L.P.,

By: 
Name: Seth L. Harrison
Title: Director of General Partner

ANNEX A

Description of Collateral

Collateral means all assets and personal property of the Borrower, including, without limitation, all of the following items, whether now owned or now due, or in which the Borrower has an interest or hereafter, at any time in the future, acquired, arising or to become due, or in which the Borrower obtains an interest, and all products, proceeds, replacements, substitutions and accessions of or to any of the following, which to the extent not defined below, shall have the meanings given to them under the Code:

A. all accounts and accounts receivable;

B. all inventory (including raw materials, work-in-process, finished goods and supplies);

C. all contract rights;

D. all general intangibles (including, without limitation, payment intangibles, software, trademarks, patents, copyrights, domain names or other intellectual property rights of the Borrower);

E. all equipment (including all machinery, furniture, and fixtures);

F. all farm products;

G. all goods;

H. all chattel paper (whether tangible or electronic);

I. all fixtures;

J. all investment property (including, without limitation, all financial assets, certificated and uncertificated securities, securities accounts and security entitlements);

K. all letter-of-credit rights;

L. all rights under judgments, all commercial tort claims, and choses in action;

M. all books, records and information relating to the Collateral and/or to the operation of the Borrower's business and all rights of access to such books, records and information and all property in which such books, records and information are stored, recorded and maintained;

N. all instruments, promissory notes, documents of title, documents, policies and certificates of insurance, securities, deposits, deposit accounts, money, cash or

other property;

O. all federal, state and local tax refunds and/or abatements to which the Borrower is or becomes entitled no matter how or when arising, including, but not limited to, any loss carryback tax refunds;

P. all insurance proceeds, refunds and premium rebates, including without limitation proceeds of fire and credit insurance, whether any of such proceeds, refunds and premium rebates arise out of any of the foregoing (A-O) or otherwise; and

Q. all liens, guaranties, rights, remedies and privileges pertaining to any of the foregoing (A-P), including the right of stoppage in transit.

EXHIBIT Q

SECURED PROMISSORY NOTE

$1,671,947.60

This Secured Promissory Note (this "**Note**"), dated as of June 11, 2025, is made and delivered by Nereid Therapeutics, Inc. ("**Borrower**"), in favor of ATP Life Science Ventures, L.P. ("**Lender**").

FOR VALUE RECEIVED, and subject to the terms and conditions hereof, and in reliance upon Borrower's representations and warranties contained herein, Lender agrees to lend Borrower the initial sum of One Million, Three Hundred Seventy One Thousand, Nine Hundred Forty Seven and 60/100 dollars US ($1,371,947.60), plus such additional advances as Lender may agree to make not to exceed $1,671,947.60 in the aggregate, with interest thereon in accordance with the provisions set forth below, both principal and interest being payable in lawful funds via wire transfer to a bank account identified by Lender or as otherwise reasonably directed by Lender.

1. Maturity Date. If not sooner paid as indicated below, the outstanding principal balance and all accrued but unpaid interest under this Note shall be due and payable on demand (the "**Maturity Date**").

2. Interest. Interest shall accrue on this Note, from the date of this Note until the date this Note is paid in full, at the rate of eight percent (8%) per annum (the "**Note Rate**"). Interest shall be calculated on the basis of a 360-day year and actual days elapsed. Accrued but unpaid interest shall be compounded monthly and shall be payable in arrears on a quarterly basis at the end of each calendar quarter, with the first such payment due September 30, 2025 until this Note is paid in full.

3. Grant of Security Interest. Borrower hereby assigns to Lender, and hereby grants to Lender a security interest in, all of Borrower's right, title, and interest in the assets and property listed in Annex A (the "**Collateral**"), which secures all of Borrower's obligations under this Note (including, without limitation, payment of reasonable attorneys', advisers' and agents' fees, expenses, and disbursements of Lender) (collectively, the "**Secured Obligations**"). This Note secures, and the Collateral is collateral security for, due and punctual payment of the Secured Obligations when and as the same shall be due and payable. Borrower shall cooperate with Lender and execute and file any documentation or take any other actions requested by Lender to secure or perfect Lender's security interest in the Collateral, including, without limitation the filing of any UCC-1 financing statement. If Borrower fails to file any UCC-1 financing statement, Borrower hereby consents to Lender filing any UCC-1 financing statement and any amendment thereto with respect to the Collateral.

4. Prepayments. Borrower shall have the option to prepay any portion of the principal or accrued interest under this Note without prepayment penalty.

5. Defaults; Acceleration. The occurrence of any one or more of the following,

whatever the reason therefor, shall constitute an "**Event of Default**" hereunder:

(a) Borrower shall fail to pay when due any principal or interest on this Note; or

(b) Borrower shall fail to perform or observe any term, covenant or agreement contained in this Note or any Loan Document on its part to be performed or observed, other than the failure to make a payment covered by Section 5(a), and such failure shall continue uncured as of fifteen (15) calendar days after written notice of such failure is given by Lender to Borrower; provided, however, that if the default cannot be cured in fifteen (15) days but Borrower is diligently pursuing the cure, then Borrower shall have thirty (30) days after written notice to effect the cure; or

(c) any representation or warranty contained in any of the Loan Documents is incorrect in any material respect when made if Lender determines, in its reasonable discretion, that such condition materially adversely affects Borrower's ability to repay this Note; or

(d) Borrower is dissolved or liquidated, or otherwise ceases to exist, or all or substantially all of the assets of Borrower are sold or otherwise transferred without Lender's prior written consent; or

(e) Borrower is the subject of an order for relief by the bankruptcy court, or is unable or admits in writing its inability to pay its debts as they mature, or makes an assignment for the benefit of creditors; or Borrower applies for or consents to the appointment of any receiver, trustee, custodian, conservator, liquidator, rehabilitator or similar officer (the "**Receiver**"); or any Receiver is appointed without the application or consent of Borrower and the appointment continues undischarged or unstayed for sixty (60) calendar days; or Borrower institutes or consents to any bankruptcy, insolvency, reorganization, arrangement, readjustment of debt, dissolution, custodianship, conservatorship, liquidation, rehabilitation or similar proceedings relating to it or to all or any part of its property under the laws of any jurisdiction; or any similar proceeding is instituted without the consent of Borrower and continues undismissed or unstayed for sixty (60) calendar days.

6. Remedies. The Lender may demand repayment of the loan and all amounts evidenced by this Note at any time and from time to time. In such event, Lender may declare the entire principal balance of this Note then outstanding (if not then due and payable), all accrued but unpaid interest, and all other obligations of Borrower hereunder to be immediately due and payable. Subject to the applicable provisions of law, upon any such declaration, the principal of this Note, all accrued but unpaid interest, and all other amounts to be paid under this Note shall become and be immediately due and payable, anything in this Note or any other document or agreement entered into in connection with this Note (collectively, "**Loan Documents**") to the contrary notwithstanding. If an Event of Default specified in Section 5(e) occurs, the entire principal balance of this Note then outstanding (if not then due and payable), all accrued and unpaid interest, and all other obligations of Borrower shall become and be immediately due and payable without any declaration or other act on the part of Lender. Upon demand, Lender may exercise any and all rights

provided herein, in any Loan Document, by law or otherwise, including without limitation, without advertisement or notice of any kind to or upon Borrower or any other person (all and each of which advertisements and/or notices are hereby expressly waived), may forthwith collect, receive, appropriate and realize upon the Collateral, or any part thereof, and/or may forthwith sell, assign, give an option or options to purchase, contract to sell or otherwise dispose of (including the disposition by merger) and deliver such Collateral, or any part thereof, in one or more portions at public or private sale or sales or transactions, at any exchange, broker's board or at any of Lender's offices or elsewhere upon such terms and conditions as Lender may deem advisable (but in all cases in compliance with the terms and provisions of this Note) and at such prices as it may deem best, for any combination of cash and/or securities or other property or on credit or for future delivery without assumption of any credit risk, with the right to Lender upon any such sale or sales, public or private, to purchase the whole or any part of said Collateral so sold, free of any right or equity of redemption in Borrower, which right or equity is hereby expressly waived or released.

7. Late Charge. If any payment is not received in full by Lender within five (5) days following the due date of any payment (but not including any payment due on the Maturity Date or resulting from an acceleration of the amounts due under this Note), Borrower shall also pay to Lender a late charge in an amount equal to two percent (2.00%) of the amount of such overdue payment. For so long as any Event of Default exists under this Note or under any of the other Loan Documents, regardless of whether or not there has been an acceleration of the amounts due under the Loan Documents, and at all times after maturity (whether by acceleration or otherwise), and in addition to all other rights and remedies of Lender hereunder, interest shall accrue on the outstanding principal balance hereof at the Default Rate (as defined below), and such accrued interest shall be immediately due and payable. Borrower acknowledges that it would be extremely difficult or impracticable to determine Lender's actual damages resulting from any late payment or Event of Default, and such late charges and accrued interest are reasonable estimates of those damages and do not constitute a penalty.

8. Default Rate. From and after the Maturity Date or, if any Event of Default occurs, from the date the payment was due regardless of any cure period, through and including the date such default is cured, at the option of Lender hereof, the amount of the missed payment(s), or, if this Note has been accelerated, all amounts owing under this Note and all sums owing under all of the Loan Documents shall bear interest at a default rate equal to five percent (5.00%) per annum in excess of the Note Rate (the "**Default Rate**"). Such interest shall be paid on the first day of each month thereafter, or on demand if sooner demanded.

9. Waivers. Borrower waives any and all defenses to payment and collection under this Note. Borrower waives any right of offset it now has or may hereafter have against Lender hereof and its successors and assigns. Borrower waives presentment, demand, protest, notice of protest, notice of intent to accelerate, notice of acceleration, notice of nonpayment or dishonor and all other notices in connection with the delivery, acceptance, performance, default or enforcement of this Note. Borrower expressly agrees that no extension or delay in the time for payment or enforcement of this Note or any Loan Document, and no alteration, amendment, waiver, renewal, or substitution of this Note or any Loan Document, will in any way affect the liability of Borrower

hereunder. No delay on Lender's part in exercising any right hereunder or under any of the Loan Documents shall operate as a waiver. Lender's acceptance of partial or delinquent payments or the failure of Lender to exercise any rights shall not waive any obligation of Borrower or any right of Lender, or modify this Note, or waive any other similar default.

10. Costs of Collection. Borrower agrees to pay all costs of collection when incurred and all costs incurred by Lender hereof in exercising or preserving any rights or remedies in connection with the enforcement of this Note or following a default by Borrower, including, but not limited to, actual attorneys' fees. If any suit or action is instituted to enforce this Note, Borrower promises to pay, in addition to the costs and disbursements otherwise allowed by law, all court costs plus such sum as the court may adjudge reasonable attorneys' fees in such suit or action.

11. Usury. Borrower hereby represents that this loan is for commercial use and not for personal, family, or household purposes. It is the specific intent of Borrower and Lender that this Note bear a lawful rate of interest, and if any court of competent jurisdiction should determine that the rate herein provided for exceeds that which is statutorily permitted for the type of transaction evidenced hereby, the interest rate shall be reduced to the highest rate permitted by applicable law, with any excess interest theretofore collected being applied against principal or, if such principal has been fully repaid, returned to Borrower upon written demand.

12. Notices. All notices, requests and other communications hereunder must be in writing and shall be deemed to have been duly given only if delivered personally, by recognized overnight courier, or by email transmission or mailed (certified mail, return receipt requested) at the addresses set forth below. All such notices, requests and other communications shall (a) if delivered personally to the address as provided in this Section, be deemed given upon delivery; (b) if delivered by email to the email address as provided in this Section, be deemed given upon receipt (if received during business hours on a Business Day (as used in this Note, the term "**Business Day**" shall mean any day other than a Saturday, Sunday, or any day on which banks located in New York are authorized or obligated to close), otherwise the next Business Day); provided that the notice sent by email must be followed by notice sent by one of the other means of notice set forth in this Section 12; and (c) if delivered by mail or overnight courier in the manner described above to the address as provided in this Section, be deemed given upon receipt, or attempted delivery, if earlier (in each case regardless of whether such notice, request or other communication is received by any other Person to whom a copy of such notice, request or other communication is to be delivered pursuant to this Section). Any party from time to time may change such party's address, facsimile number or other information for the purpose of notices to that party by giving notice specifying such change to the other party.

If to Borrower: Nereid Therapeutics, Inc.
Attn: John Reilly
451 D Street, Suite 912
Boston, MA 02210
Email: jreilly@nereidtx.com

With a copy to counsel:

Harold B. Murphy, Esq.
Andrew G. Lizotte, Esq.
Murphy & King, P.C.
28 State Street, Suite 3101
Boston, MA 02109

If to Lender:

ATP Life Science Ventures, L.P.
Attn: Joseph A. Yanchik, III
245 Main Street, Floor 12
Cambridge, MA 02142
Email: jyanchik@appletreepartners.com

With a copy to counsel:

Eric Winston, Esq.
Quinn Emanuel Urquhart & Sullivan, LLP
865 S. Figueroa Street, 10th Floor
Los Angeles, CA 90017
Email: ericwinston@quinnemanuel.com

Daniel Holzman, Esq.
Quinn Emanuel Urquhart & Sullivan, LLP
295 Fifth Avenue, 9th Floor
New York, NY 10016
Email: danielholzman@quinnemanuel.com

13. Construction. This Note and all Loan Documents have been reviewed and negotiated by Borrower and Lender at arms' length with the benefit of or opportunity to seek the assistance of legal counsel and shall not be construed against any party. The titles and captions in this Note are inserted for convenience only and in no way define, limit, extend, or modify the scope of intent of this Note.

14. Partial Invalidity. If any section or provision of this Note is declared invalid or unenforceable by any court of competent jurisdiction, said determination shall not affect the validity or enforceability of the remaining terms hereof. No such determination in one jurisdiction shall affect any provision of this Note to the extent it is otherwise enforceable under the laws of any other applicable.

15. Governing Law; Jurisdiction. This Note shall be construed according to and governed by the laws of State of New York, without regard to its choice of law provisions that would result in the application of law of another jurisdiction. Borrower and Lender irrevocably submit to the exclusive jurisdiction of the federal and state courts located in New York, New York

in any action or proceeding arising out of this Note, and covenant that any such action or proceeding shall be brought only in such courts; provided that either Lender or Borrower shall be entitled to enforce any judgment relating to this Note in any court of competent jurisdiction. Borrower and Lender irrevocably waive, to the fullest extent permitted by law, any objection that they may now or hereafter have to the laying of the venue of or jurisdiction of any such action or proceeding brought in such courts and that any such action or proceeding brought in any such court has been brought in an inconvenient forum.

16. WAIVERS OF JURY TRIAL. EACH PARTY HERETO HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES TRIAL BY JURY IN ANY LEGAL ACTION OR PROCEEDING RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT AND FOR ANY COUNTERCLAIM HEREUNDER OR THEREUNDER.

17. Entire Agreement. This Note and the other instruments, statements or documents described herein constitute the entire agreement between Lender and Borrower, with any and all prior agreements and understandings being canceled and merged herein.

[***Signature Page Follows***]

IN WITNESS WHEREOF, Borrower and Lender have caused this Note to be signed as of the date first written above.

BORROWER:

Nereid Therapeutics, Inc.,

By: _____
Name: John F. Reilly
Title: Chief Scientific Officer

LENDER:

ATP Life Science Ventures, L.P.,

By: _____
Name: Seth L. Harrison
Title: Director of General Partner

ANNEX A

Description of Collateral

Collateral means all assets and personal property of the Borrower, including, without limitation, all of the following items, whether now owned or now due, or in which the Borrower has an interest or hereafter, at any time in the future, acquired, arising or to become due, or in which the Borrower obtains an interest, and all products, proceeds, replacements, substitutions and accessions of or to any of the following, which to the extent not defined below, shall have the meanings given to them under the Code:

A. all accounts and accounts receivable;

B. all inventory (including raw materials, work-in-process, finished goods and supplies);

C. all contract rights;

D. all general intangibles (including, without limitation, payment intangibles, software, trademarks, patents, copyrights, domain names or other intellectual property rights of the Borrower);

E. all equipment (including all machinery, furniture, and fixtures);

F. all farm products;

G. all goods;

H. all chattel paper (whether tangible or electronic);

I. all fixtures;

J. all investment property (including, without limitation, all financial assets, certificated and uncertificated securities, securities accounts and security entitlements);

K. all letter-of-credit rights;

L. all rights under judgments, all commercial tort claims, and choses in action;

M. all books, records and information relating to the Collateral and/or to the operation of the Borrower's business and all rights of access to such books, records and information and all property in which such books, records and information are stored, recorded and maintained;

N. all instruments, promissory notes, documents of title, documents, policies and certificates of insurance, securities, deposits, deposit accounts, money, cash or

other property;

O. all federal, state and local tax refunds and/or abatements to which the Borrower is or becomes entitled no matter how or when arising, including, but not limited to, any loss carryback tax refunds;

P. all insurance proceeds, refunds and premium rebates, including without limitation proceeds of fire and credit insurance, whether any of such proceeds, refunds and premium rebates arise out of any of the foregoing (A-O) or otherwise; and

Q. all liens, guaranties, rights, remedies and privileges pertaining to any of the foregoing (A-P), including the right of stoppage in transit.

EXHIBIT R

SECURED PROMISSORY NOTE

$1,000,000.00

This Secured Promissory Note (this "**Note**"), dated as of July 24, 2025, is made and delivered by Nine Square Therapeutics Corporation ("**Borrower**"), in favor of ATP Life Science Ventures, L.P. ("**Lender**").

FOR VALUE RECEIVED, and subject to the terms and conditions hereof, and in reliance upon Borrower's representations and warranties contained herein, Lender agrees to lend Borrower the initial sum of Two Hundred Thousand Dollars US ($200,000.00), plus such additional advances as Lender may agree to make not to exceed $1,000,000.00 in the aggregate, with interest thereon in accordance with the provisions set forth below, both principal and interest being payable in lawful funds via wire transfer to a bank account identified by Lender or as otherwise reasonably directed by Lender.

1. Maturity Date. If not sooner paid as indicated below, the outstanding principal balance and all accrued but unpaid interest under this Note shall be due and payable on demand (the "**Maturity Date**").

2. Interest. Interest shall accrue on this Note, from the date of this Note until the date this Note is paid in full, at the rate of eight percent (8%) per annum (the "**Note Rate**"). Interest shall be calculated on the basis of a 360-day year and actual days elapsed. Accrued but unpaid interest shall be compounded monthly and shall be payable in arrears on a quarterly basis at the end of each calendar quarter, with the first such payment due September 30, 2025 until this Note is paid in full.

3. Grant of Security Interest. Borrower hereby assigns to Lender, and hereby grants to Lender a security interest in, all of Borrower's right, title, and interest in the assets and property listed in Annex A (the "**Collateral**"), which secures all of Borrower's obligations under this Note (including, without limitation, payment of reasonable attorneys', advisers' and agents' fees, expenses, and disbursements of Lender) (collectively, the "**Secured Obligations**"). This Note secures, and the Collateral is collateral security for, due and punctual payment of the Secured Obligations when and as the same shall be due and payable. Borrower shall cooperate with Lender and execute and file any documentation or take any other actions requested by Lender to secure or perfect Lender's security interest in the Collateral, including, without limitation the filing of any UCC-1 financing statement. If Borrower fails to file any UCC-1 financing statement, Borrower hereby consents to Lender filing any UCC-1 financing statement and any amendment thereto with respect to the Collateral.

4. Prepayments. Borrower shall have the option to prepay any portion of the principal or accrued interest under this Note without prepayment penalty.

5. Defaults; Acceleration. The occurrence of any one or more of the following,

whatever the reason therefor, shall constitute an "**Event of Default**" hereunder:

(a) Borrower shall fail to pay when due any principal or interest on this Note; or

(b) Borrower shall fail to perform or observe any term, covenant or agreement contained in this Note or any Loan Document on its part to be performed or observed, other than the failure to make a payment covered by Section 5(a), and such failure shall continue uncured as of fifteen (15) calendar days after written notice of such failure is given by Lender to Borrower; provided, however, that if the default cannot be cured in fifteen (15) days but Borrower is diligently pursuing the cure, then Borrower shall have thirty (30) days after written notice to effect the cure; or

(c) any representation or warranty contained in any of the Loan Documents is incorrect in any material respect when made if Lender determines, in its reasonable discretion, that such condition materially adversely affects Borrower's ability to repay this Note; or

(d) Borrower is dissolved or liquidated, or otherwise ceases to exist, or all or substantially all of the assets of Borrower are sold or otherwise transferred without Lender's prior written consent; or

(e) Borrower is the subject of an order for relief by the bankruptcy court, or is unable or admits in writing its inability to pay its debts as they mature, or makes an assignment for the benefit of creditors; or Borrower applies for or consents to the appointment of any receiver, trustee, custodian, conservator, liquidator, rehabilitator or similar officer (the "**Receiver**"); or any Receiver is appointed without the application or consent of Borrower and the appointment continues undischarged or unstayed for sixty (60) calendar days; or Borrower institutes or consents to any bankruptcy, insolvency, reorganization, arrangement, readjustment of debt, dissolution, custodianship, conservatorship, liquidation, rehabilitation or similar proceedings relating to it or to all or any part of its property under the laws of any jurisdiction; or any similar proceeding is instituted without the consent of Borrower and continues undismissed or unstayed for sixty (60) calendar days.

6. Remedies. The Lender may demand repayment of the loan and all amounts evidenced by this Note at any time and from time to time. In such event, Lender may declare the entire principal balance of this Note then outstanding (if not then due and payable), all accrued but unpaid interest, and all other obligations of Borrower hereunder to be immediately due and payable. Subject to the applicable provisions of law, upon any such declaration, the principal of this Note, all accrued but unpaid interest, and all other amounts to be paid under this Note shall become and be immediately due and payable, anything in this Note or any other document or agreement entered into in connection with this Note (collectively, "**Loan Documents**") to the contrary notwithstanding. If an Event of Default specified in Section 5(e) occurs, the entire principal balance of this Note then outstanding (if not then due and payable), all accrued and unpaid interest, and all other obligations of Borrower shall become and be immediately due and payable without any declaration or other act on the part of Lender. Upon demand, Lender may exercise any and all rights

provided herein, in any Loan Document, by law or otherwise, including without limitation, without advertisement or notice of any kind to or upon Borrower or any other person (all and each of which advertisements and/or notices are hereby expressly waived), may forthwith collect, receive, appropriate and realize upon the Collateral, or any part thereof, and/or may forthwith sell, assign, give an option or options to purchase, contract to sell or otherwise dispose of (including the disposition by merger) and deliver such Collateral, or any part thereof, in one or more portions at public or private sale or sales or transactions, at any exchange, broker's board or at any of Lender's offices or elsewhere upon such terms and conditions as Lender may deem advisable (but in all cases in compliance with the terms and provisions of this Note) and at such prices as it may deem best, for any combination of cash and/or securities or other property or on credit or for future delivery without assumption of any credit risk, with the right to Lender upon any such sale or sales, public or private, to purchase the whole or any part of said Collateral so sold, free of any right or equity of redemption in Borrower, which right or equity is hereby expressly waived or released.

7. Late Charge. If any payment is not received in full by Lender within five (5) days following the due date of any payment (but not including any payment due on the Maturity Date or resulting from an acceleration of the amounts due under this Note), Borrower shall also pay to Lender a late charge in an amount equal to two percent (2.00%) of the amount of such overdue payment. For so long as any Event of Default exists under this Note or under any of the other Loan Documents, regardless of whether or not there has been an acceleration of the amounts due under the Loan Documents, and at all times after maturity (whether by acceleration or otherwise), and in addition to all other rights and remedies of Lender hereunder, interest shall accrue on the outstanding principal balance hereof at the Default Rate (as defined below), and such accrued interest shall be immediately due and payable. Borrower acknowledges that it would be extremely difficult or impracticable to determine Lender's actual damages resulting from any late payment or Event of Default, and such late charges and accrued interest are reasonable estimates of those damages and do not constitute a penalty.

8. Default Rate. From and after the Maturity Date or, if any Event of Default occurs, from the date the payment was due regardless of any cure period, through and including the date such default is cured, at the option of Lender hereof, the amount of the missed payment(s), or, if this Note has been accelerated, all amounts owing under this Note and all sums owing under all of the Loan Documents shall bear interest at a default rate equal to five percent (5.00%) per annum in excess of the Note Rate (the "**Default Rate**"). Such interest shall be paid on the first day of each month thereafter, or on demand if sooner demanded.

9. Waivers. Borrower waives any and all defenses to payment and collection under this Note. Borrower waives any right of offset it now has or may hereafter have against Lender hereof and its successors and assigns. Borrower waives presentment, demand, protest, notice of protest, notice of intent to accelerate, notice of acceleration, notice of nonpayment or dishonor and all other notices in connection with the delivery, acceptance, performance, default or enforcement of this Note. Borrower expressly agrees that no extension or delay in the time for payment or enforcement of this Note or any Loan Document, and no alteration, amendment, waiver, renewal, or substitution of this Note or any Loan Document, will in any way affect the liability of Borrower

hereunder. No delay on Lender's part in exercising any right hereunder or under any of the Loan Documents shall operate as a waiver. Lender's acceptance of partial or delinquent payments or the failure of Lender to exercise any rights shall not waive any obligation of Borrower or any right of Lender, or modify this Note, or waive any other similar default.

10. Costs of Collection. Borrower agrees to pay all costs of collection when incurred and all costs incurred by Lender hereof in exercising or preserving any rights or remedies in connection with the enforcement of this Note or following a default by Borrower, including, but not limited to, actual attorneys' fees. If any suit or action is instituted to enforce this Note, Borrower promises to pay, in addition to the costs and disbursements otherwise allowed by law, all court costs plus such sum as the court may adjudge reasonable attorneys' fees in such suit or action.

11. Usury. Borrower hereby represents that this loan is for commercial use and not for personal, family, or household purposes. It is the specific intent of Borrower and Lender that this Note bear a lawful rate of interest, and if any court of competent jurisdiction should determine that the rate herein provided for exceeds that which is statutorily permitted for the type of transaction evidenced hereby, the interest rate shall be reduced to the highest rate permitted by applicable law, with any excess interest theretofore collected being applied against principal or, if such principal has been fully repaid, returned to Borrower upon written demand.

12. Notices. All notices, requests and other communications hereunder must be in writing and shall be deemed to have been duly given only if delivered personally, by recognized overnight courier, or by email transmission or mailed (certified mail, return receipt requested) at the addresses set forth below. All such notices, requests and other communications shall (a) if delivered personally to the address as provided in this Section, be deemed given upon delivery; (b) if delivered by email to the email address as provided in this Section, be deemed given upon receipt (if received during business hours on a Business Day (as used in this Note, the term "**Business Day**" shall mean any day other than a Saturday, Sunday, or any day on which banks located in New York are authorized or obligated to close), otherwise the next Business Day); provided that the notice sent by email must be followed by notice sent by one of the other means of notice set forth in this Section 12; and (c) if delivered by mail or overnight courier in the manner described above to the address as provided in this Section, be deemed given upon receipt, or attempted delivery, if earlier (in each case regardless of whether such notice, request or other communication is received by any other Person to whom a copy of such notice, request or other communication is to be delivered pursuant to this Section). Any party from time to time may change such party's address, facsimile number or other information for the purpose of notices to that party by giving notice specifying such change to the other party.

If to Borrower: Nine Square Therapeutics Corporation
Attn: Spiros Liras
285 E. Grand Ave, Suite 2200
South San Francisco, 94080
Email: sliras@appletreepartners.com

With a copy to counsel:

Harold B. Murphy, Esq.
Andrew G. Lizotte, Esq.
Murphy & King, P.C.
28 State Street, Suite 3101
Boston, MA 02109

If to Lender:

ATP Life Science Ventures, L.P.
Attn: Joseph A. Yanchik, III
245 Main Street, Floor 12
Cambridge, MA 02142
Email: jyanchik@appletreepartners.com

With a copy to counsel:

Eric Winston, Esq.
Quinn Emanuel Urquhart & Sullivan, LLP
865 S. Figueroa Street, 10th Floor
Los Angeles, CA 90017
Email: ericwinston@quinnemanuel.com

Daniel Holzman, Esq.
Quinn Emanuel Urquhart & Sullivan, LLP
295 Fifth Avenue, 9th Floor
New York, NY 10016
Email: danielholzman@quinnemanuel.com

13. Construction. This Note and all Loan Documents have been reviewed and negotiated by Borrower and Lender at arms' length with the benefit of or opportunity to seek the assistance of legal counsel and shall not be construed against any party. The titles and captions in this Note are inserted for convenience only and in no way define, limit, extend, or modify the scope of intent of this Note.

14. Partial Invalidity. If any section or provision of this Note is declared invalid or unenforceable by any court of competent jurisdiction, said determination shall not affect the validity or enforceability of the remaining terms hereof. No such determination in one jurisdiction shall affect any provision of this Note to the extent it is otherwise enforceable under the laws of any other applicable.

15. Governing Law; Jurisdiction. This Note shall be construed according to and governed by the laws of State of New York, without regard to its choice of law provisions that would result in the application of law of another jurisdiction. Borrower and Lender irrevocably submit to the exclusive jurisdiction of the federal and state courts located in New York, New York in any action or proceeding arising out of this Note, and covenant that any such action or proceeding

shall be brought only in such courts; provided that either Lender or Borrower shall be entitled to enforce any judgment relating to this Note in any court of competent jurisdiction. Borrower and Lender irrevocably waive, to the fullest extent permitted by law, any objection that they may now or hereafter have to the laying of the venue of or jurisdiction of any such action or proceeding brought in such courts and that any such action or proceeding brought in any such court has been brought in an inconvenient forum.

16. WAIVERS OF JURY TRIAL. EACH PARTY HERETO HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES TRIAL BY JURY IN ANY LEGAL ACTION OR PROCEEDING RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT AND FOR ANY COUNTERCLAIM HEREUNDER OR THEREUNDER.

17. Entire Agreement. This Note and the other instruments, statements or documents described herein constitute the entire agreement between Lender and Borrower, with any and all prior agreements and understandings being canceled and merged herein.

[***Signature Page Follows***]

IN WITNESS WHEREOF, Borrower and Lender have caused this Note to be signed as of the date first written above.

BORROWER:

Nine Square Therapeutics Corporation

By: DocuSigned by: Spiros Liras 31A06B013C4B480...

Name: Spiros Liras

Title: President

LENDER:

ATP Life Science Ventures, L.P.,

By: _____

Name:

Title:

ANNEX A

Description of Collateral

Collateral means all assets and personal property of the Borrower, including, without limitation, all of the following items, whether now owned or now due, or in which the Borrower has an interest or hereafter, at any time in the future, acquired, arising or to become due, or in which the Borrower obtains an interest, and all products, proceeds, replacements, substitutions and accessions of or to any of the following, which to the extent not defined below, shall have the meanings given to them under the Code:

A. all accounts and accounts receivable;

B. all inventory (including raw materials, work-in-process, finished goods and supplies);

C. all contract rights;

D. all general intangibles (including, without limitation, payment intangibles, software, trademarks, patents, copyrights, domain names or other intellectual property rights of the Borrower);

E. all equipment (including all machinery, furniture, and fixtures);

F. all farm products;

G. all goods;

H. all chattel paper (whether tangible or electronic);

I. all fixtures;

J. all investment property (including, without limitation, all financial assets, certificated and uncertificated securities, securities accounts and security entitlements);

K. all letter-of-credit rights;

L. all rights under judgments, all commercial tort claims, and choses in action;

M. all books, records and information relating to the Collateral and/or to the operation of the Borrower's business and all rights of access to such books, records and information and all property in which such books, records and information are stored, recorded and maintained;

N. all instruments, promissory notes, documents of title, documents, policies and certificates of insurance, securities, deposits, deposit accounts, money, cash or

other property;

O. all federal, state and local tax refunds and/or abatements to which the Borrower is or becomes entitled no matter how or when arising, including, but not limited to, any loss carryback tax refunds;

P. all insurance proceeds, refunds and premium rebates, including without limitation proceeds of fire and credit insurance, whether any of such proceeds, refunds and premium rebates arise out of any of the foregoing (A-O) or otherwise; and

Q. all liens, guaranties, rights, remedies and privileges pertaining to any of the foregoing (A-P), including the right of stoppage in transit.

EXHIBIT S

AMENDMENT NO. 3

AMENDMENT NO. 3 (this "Amendment"), dated September 1, 2014, to the First Amended and Restated Limited Partnership Agreement (the "Agreement") of Apple Tree Partners IV, L.P. (the "Partnership"). Capitalized terms used without definition herein shall have the respective meanings specified therefor in the Agreement.

For good and valuable consideration, including but not limited to the mutual covenants contained herein, the receipt and sufficiency of which are hereby acknowledged, the undersigned do hereby agree that the Agreement is hereby amended (on behalf of all Partners) pursuant to Paragraph 17 thereof as follows:

1. Each reference in the Agreement to a "Subsidiary" of an entity shall be interpreted to mean and include each enterprise, a majority of whose voting securities, are owned directly or indirectly by such entity.

2. Paragraph 2(n) of the Agreement is hereby amended and restated in its entirety to read as follows:

"(n) ATC Board. The board of directors of ATC (the "Board") shall consist of five individuals, three of whom shall be appointed by the holders of a majority of the Preferred Units and two of whom shall be appointed by the General Partner; provided, however, that if the General Partner has been removed as general partner of the Partnership pursuant to Paragraph 4(a), the Board shall consist solely of three individuals appointed by the holders of a majority of the Preferred Units. Subject to the terms of this Agreement, the Board shall have the sole and exclusive authority, by majority vote of its members (including all members appointed by the holders of a majority of the Preferred Units), to approve investments by ATC in Projects (as defined below), together with a budget for each Project (which may be for more than a single year and may include milestone-based payments), which Projects and budgets have been proposed by ATC's management. A description of the budgeting process to be undertaken by the Board is attached hereto as Schedule C. Without the approval of at least 80% of its members (including all members appointed by the holders of a majority of the Preferred Units), the Board shall not cause ATC to: (i) declare dividends or other distributions (except in accordance with a budget approved by the Board or as described below); (ii) effect any liquidation, dissolution or winding up of ATC; (iii) effect any consolidation or merger of ATC into or with any other entity or entities, or any sale or other disposition of a substantial portion of the assets of ATC; (iv) issue securities of ATC (other than to the Partnership or an Intermediary); (v) borrow or issue guarantees; or (vi) approve the transfer of any securities of ATC. The Board shall cause ATC to enter into an agreement with the General Partner for the day-to-day operations of ATC to be managed by the General Partner or its designee in a form approved in writing by the holders of a majority of the Preferred Units (the "Operating Agreement"); provided that no compensation shall be paid by ATC to the General Partner or its designee, the Management Company, Dr. Harrison or their respective affiliates pursuant thereto. Notwithstanding the foregoing, the General Partner shall cause ATC to distribute promptly to the Partnership any amounts received by ATC from its Subsidiaries which remain after ATC has made or established appropriate reserves for paying its expenses, liabilities and other obligations (including investments in Projects pursuant to a budget approved by the Board). To the maximum extent practicable, ATC

Joint Exhibit
JX-0004
C.A. No. 2025-0607-KSJM

shall fund its operations (including investments in Projects) from capital contributions coming directly or indirectly from the Partnership, rather than through the recycling of ATC income or distributions (including distributions received by ATC from its Subsidiaries. The holders of a majority of the Preferred Units may, at their sole option at any time or times, require the General Partner to constitute boards of directors for any or all of the Subsidiaries of ATC, substantially on the same basis, and with the same authority, as the Board. In the absence of such a board being established for any Subsidiary of ATC, such Subsidiary shall not take any action prohibited by clauses (i) through (vi) above (as if such clause referred to such Subsidiary rather than ATC), except with the prior written consent of the holders of a majority of the Preferred Units or in accordance with a budget approved by the Board. As used in this Agreement, the term "Projects" means investments in pharmaceutical, medical device and other medically-related companies, projects and related activities that are made directly by the Partnership or indirectly by it through Intermediaries, as well as through ATC."

3. Paragraph 5(a)(ii) of the Agreement is hereby amended and restated in its entirety to read as follows:

"Unless otherwise approved by the holders of a majority of the Preferred Units in writing, the General Partner may only call capital, as of any time, in amounts sufficient to enable the Partnership, ATC and the Intermediaries (including, without limitation, Subsidiaries and Operating Companies), as applicable, to (A) pay Partnership, ATC and Intermediary expenses then existing or reasonably anticipated to be incurred within the next six-month period, (B) pay other Partnership, ATC and Intermediary non-discretionary items (such as taxes and tax distributions) and satisfy other Partnership, ATC and Intermediary expenses and obligations incurred in the ordinary course of business, (C) pay the Management Fee for the next 12-month period, (D) invest in Projects approved by the Board in accordance with a Board-approved budget, in the case of Projects being run through ATC, (E) invest in Projects approved by the holders of a majority of the Preferred Units in writing in accordance with a budget therefor approved by such holders of Preferred Units, in the case of Projects not being run through ATC, (F) pay other Partnership, ATC and Intermediary operating expenses that are covered by a budget proposed by the General Partner and approved by the holders of a majority of the Preferred Units in writing in accordance with Schedule C-1, and (G) have a reserve not exceeding $15 million at any one time for investing in the Late-Stage Investment Pool (as defined in Paragraph 8(c)). Notwithstanding the foregoing, unless otherwise approved by the holders of a majority of the Preferred Units in writing or the Board, (i) capital calls in respect of all indemnification obligations pursuant to Paragraph 15 shall not exceed in the aggregate the greater of (Y) 20% of the Partnership's contributed capital or (Z) $50 million, and (ii) in the case of a capital call pursuant to clause (D) or (E) of the preceding sentence that is made on a basis accelerated from that set forth in an approved Project budget, the General Partner (a) represents in writing to the Partners that it has a good faith belief that the Project (or portion thereof covered by such budget) will be completed within the aggregate amount budgeted therefor and (b) provided the Board or the holders of the Preferred Units, as the case may be, with a reasonably detailed and diligenced presentation supporting such representation; provided, however, that no approval by the Board or the holders of Preferred Units shall be required with respect to organizational expenses of the Partnership and its related entities."

4. Paragraph 8(c) of the Agreement is hereby amended and restated in its entirety to read as follows:

"(c) Timing of Other Distributions. The General Partner shall cause the Partnership to distribute in cash to the Partners, promptly from time to time, any amounts held by the Partnership which remain after the Partnership has made, or established reserves to make, tax distributions and Tracking Unit distributions which are required by Paragraphs 8(a) and (b), respectively, except to the extent that the General Partner reasonably determines that such amounts may be necessary for paying Partnership, Intermediary and ATC expenses, liabilities and other obligations (including investments in Projects consistent with the applicable budgets) and establishing reserves therefor, in each case in accordance with budgets approved by the Board or as provided for in this Agreement in the case of the Management Fee and indemnification obligations, or as otherwise determined by the General Partner with the prior written consent of the holders of a majority of the Preferred Units. The Partnership may, at the discretion of the General Partner and with the prior written consent of the holders of a majority of the Preferred Units, distribute to the Partners at any time additional amounts in cash or in kind. To the maximum extent practicable, each Intermediary, ATC and each Subsidiary shall fund its operations (including investments in Projects) from capital contributions coming directly or indirectly from the Partnership, rather than through the recycling of their own income or distributions (including distributions received from entities in which they have an ownership interest). Without limitation on the foregoing, the General Partner shall cause each Subsidiary of ATC to distribute promptly to ATC any amounts which remain after such Subsidiary has made or established appropriate reserves for paying its expenses, liabilities and other obligations (including investments in Projects consistent with the applicable budgets). Notwithstanding the foregoing provisions of this Paragraph 8(c), the General Partner may designate up to $50 million in the aggregate of capital contributions made by the Partners to the Partnership for investment by the Partnership in minority positions in late-stage privately held companies, initial public offerings and publicly held companies, which investments the General Partner anticipates will be liquidated within 24-months of the respective dates on which they are made (the "Late-Stage Investment Pool"). The General Partner hereby designates the $25,229,439 previously invested by the Partnership in Aurinia, Zafgen, Dermira, Cerecor, ProQR and Tokai as part of the Late-Stage Investment Pool, leaving a remaining balance of $24,770,561 for future designation. The General Partner may cause the Partnership to continue to reinvest the proceeds realized by the Partnership from Late-Stage Investment Pool liquidations in other Late-Stage Investment Pool investments, provided that any net profits realized by the Partnership on an aggregate basis from Late-Stage Investment Pool liquidations may not be reinvested. Any Late-Stage Investment Pool investments may be made by the Partnership directly or indirectly. In addition to and notwithstanding the foregoing, at the discretion of the General Partner and with the prior written consent of the holders of a majority of the Preferred Units, the General Partner may cause the Partnership, any Intermediary, ATC or any Subsidiary to reinvest its income or any distributions or other proceeds received by it, rather than causing such amounts to be distributed to the Partners or any higher tier entity.

In all other respects, the Agreement shall continue in full force and effect and shall be unaffected by this Amendment.

IN WITNESS WHEREOF, the undersigned have executed this Amendment as a deed on the day and year first above written.

GENERAL PARTNER:

Executed as a deed by:

ATP III GP, Ltd.

By: _____
Name: Seth L. Harrison
Title: Director

7070/11922-015 current/44910393v3

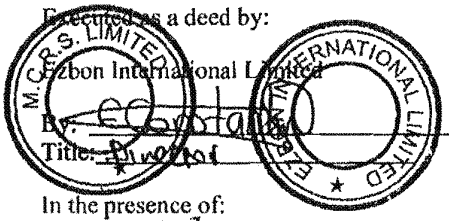
LIMITED PARTNERS

Executed as a deed by:

Fizbon International Limited

By: _____

Title: Director



In the presence of:

_____

Witness

Executed as a deed by:

Blue Horizon Enterprise Ltd.

By: _____

Title: DIRECTOR

In the presence of:

_____

Witness Andrey Miller

Executed as a deed by:

By: _____

Seth L. Harrison

In the presence of:

_____

Maja Nowak

7070/11922-015 current/44910393v3

EXHIBIT T

From: Taft, William
Sent: Sunday, January 11, 2026 2:12 PM
To: 'Razmig Izakelian'; Ceresa, Christopher R.; Labovitz, Natasha; 'Perry Mandarino'; Patty Tomasco; QE-ATP-Restructuring; 'L. Katherine Good'; 'Brett M. Haywood'; 'Shannon Forshay'; 'Ethan H. Sulik'; 'Elise Melconian'; 'Igor Belov'
Cc: Weiss, Sara; Van Duyn, Andrew; Weiss, Sara; 'Clint M. Carlisle'; 'Michael J. Merchant'
Subject: RE: ATLS - Operational Motions

Razmig,

There will be additional questions and requests shortly, but as a matter of high priority please send us copies of the "individual company research program requirements and milestones" referenced on the Assumptions tab (#12 and #13) for each portfolio company covered by the budget.

We reserve all rights.

Thanks,
Will

William H. Taft V | Partner & Chief Financial Officer | Debevoise & Plimpton LLP | whtaft@debevoise.com | +1 212 909 6877 | 66 Hudson Boulevard, New York, NY 10001 | www.debevoise.com

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The latest version of our Privacy Policy, which includes information about how we collect, use and protect personal data, is at www.debevoise.com.

From: Razmig Izakelian <razmigizakelian@quinnemanuel.com>
Sent: Sunday, January 11, 2026 12:33 PM
To: Ceresa, Christopher R. <crceresa@debevoise.com>; Labovitz, Natasha <nlabovitz@debevoise.com>; 'Perry Mandarino' <pmandarino@brileysecurities.com>; Patty Tomasco <pattytomasco@quinnemanuel.com>; QE- ATP-Restructuring <qe-atp-restructuring@quinnemanuel.com>; 'L. Katherine Good' <kgood@potteranderson.com>; 'Brett M. Haywood' <bhaywood@potteranderson.com>; 'Shannon Forshay' <sforshay@potteranderson.com>; 'Ethan H. Sulik' <esulik@potteranderson.com>; 'Elise Melconian' <emelconian@brileysecurities.com>; 'Igor Belov' <ibelov@brileysecurities.com>
Cc: Taft, William <whtaft@debevoise.com>; Weiss, Sara <sbweiss@debevoise.com>; Van Duyn, Andrew <amvanduyn@debevoise.com>; Weiss, Sara <sbweiss@debevoise.com>; 'Clint M. Carlisle' <Carlisle@rlf.com>; 'Michael J. Merchant' <Merchant@rlf.com>
Subject: RE: ATLS - Operational Motions

EXTERNAL

All, please see responses to your "Informational Points" below.

Informational Points - Nonexhaustive List

1. OCP
    1. Explain how the Debtors arrived at the potential monthly spend contemplated in the motion (up to $975K /month in the aggregate) and how that is consistent with the budget

attached to Perry's declaration which shows significantly less anticipated spending for "Professional Fees - Non-Bankruptcy" and "Professional Fees - Non-Legal" in the 13-week forecast. Please see attached budget.

2. The Rigmora LPs received legal services from Proskauer and believe it may be inappropriate for the estate to retain Proskauer as an OCP. The Debtors will not use Proskauer unless the provision of Proskauer's services becomes reasonably unavoidable. In any such event, the Debtors will make reasonable efforts to confer with Rigmora, and at all times will of course only use Proskauer to the extent such use is compliant with the professional rules of conduct concerning any potential conflicts of interest.
3. Petra is already compensated through the ATLS budget and fee and, accordingly, should not have separate spending under an OCP order. The Debtors agree to include Petra in the budget rather than in the OCP order.
4. Please explain why each of these 13 proposed OCPs are critical and their work cannot be paused or reduced much further during the pendency of the bankruptcy cases. The OCP motion is a common practice to allow for compliance with the retention rules by reducing the costs of individual law firm retention pleadings. The budget provides guidance on the anticipated OCP spend. The OCP pleading does not change the budget, and if anything reduces the costs associated with each of the OCPs.

2. Cash Management
    1. Given the relief sought is to continue in line with prepetition practices, please explain why credit card spending at Evercrisp is high ($28K/month per the Supplement) and provide statements showing that spending. Our understanding is that this is how Evercrisp pays its bills. It does not change the budget. Moreover, we are willing to discuss getting information to you to satisfy your concern, but given the amount at issue, we want to make sure what you require will be reasonable given the amounts at issue.
    2. Please explain what the "legitimate business expenses" are in respect of the use of credit cards and what policies are in place to monitor credit card spending. The budget outlines the expenses. The Debtors monitor credit card use.
3. Employee Wages / Benefits
    1. As we've been discussing, provide detail about the proposed bonuses to be paid to non-insiders, including name/role, whether prepetition, how calculated, and whether they are based on an incentive program or a regular schedule. The Debtors are processing this request and will provide information as soon as possible. The year-end bonus system has been in place for years. The bonus is earned only if the employee is employed on the bonus payment date, which is February 10. It is entirely postpetition. We do not intend to engage in an ad hoc evaluation of the bonus system except with the Court and the US Trustee, and certainly do not intend to spend more on attorney fees' going back and forth on this above the actual bonuses to be paid.
    2. Provide an employee census that provides name/role and compensation detail. At this stage, the Debtors will not provide you with the requested employee census. This request is overly broad and burdensome, including because its treatment would require substantial time and resources that the Debtors can use for other purposes relating to their restructuring.

Orders – Nonexhaustive Comments

1. Employee Benefits / Wages

    1. The increase in the cap to $70K should be reduced to $50K. What is your basis for reducing the cap by $20k? Do you think it is worthwhile, and an efficient use of resources, to reduce the cushion and force the Debtors to go back to the Court in the event there is a slight overage? Doing so will cost far more than $20k.
    2. We will have additional comments to conform to the language agreed for purposes of the Wages Interim Order.
2. OCP
    1. Clarify that the Rigmora LPs have the right to object to any OCP declaration filed, as the order appears to only permit "Reviewing Parties" the right to object. Agree.
    2. Remove both Proskauer from the OCP schedule. Please see above re Proskauer. Rigmora can object if and when Proskauer files an OCP declaration. It is a waste of resources to discuss this now.
    3. Clarify that OCPs and the debtors will account for OCP services and expenditures on a debtor-by-debtor basis. Agree.
3. Utilities - Include that the Rigmora LPs will receive notice of any changes to the Utilities Schedule (including adding or removing utilities) or changes to the adequate assurance amount. The Debtors are willing to include language that they will provide this information to Rigmora upon request. Please send proposed language.
4. Insurance - Include that the Rigmora LPs will receive notice of any changes in respect of the insurance policies (including renewals and any changes to the schedule of insurance policies). The Debtors are willing to include language that they will provide this information to Rigmora upon request. Please send proposed language.
5. Global - All Operational Motions
    1. Clarify that accounting on the relief requested will be on a debtor-by-debtor basis. We do not understand what this means. Please send proposed language.
    2. Rigmora LPs require a reservation of rights on these points: (i) to raise arguments that the source, allocation, and characterization of any funding, or proposal to allocate any funds, is not in accordance with LP-approved budgets and are improper and in contravention of the Bankruptcy Code and the terms of the LPA; (ii) the arguments in the motion to dismiss the petitions filed by the Fund, GP and ATLS; and (iii) the Rigmora LPs reserve the right to seek damages against the GP arising from these bankruptcy proceedings, including on the basis that the filings were unlawful or in breach of fiduciary duty. Please send proposed language for your reservation of rights. We of course will not agree that Rigmora has a right to assert estate claims or causes of action (and the Debtors will include a reservation of rights for any actions that violate the stay, the Debtors' exclusivity, and any other rights and defenses afforded to the Debtors under the Bankruptcy Code and applicable non-bankruptcy law). But as long as the proposed language is only a reservation of rights to present arguments, it should be fine.

From: Ceresa, Christopher R. <crceresa@debevoise.com>
Sent: Sunday, January 11, 2026 8:11 AM
To: Labovitz, Natasha <nlabovitz@debevoise.com>; Razmig Izakelian <razmigizakelian@quinnemanuel.com>; 'Perry Mandarino' <pmandarino@brileysecurities.com>; Patty Tomasco <pattytomasco@quinnemanuel.com>; QE- ATP-Restructuring <qe-atp-restructuring@quinnemanuel.com>; 'L. Katherine Good' <kgood@potteranderson.com>; 'Brett M. Haywood' <bhaywood@potteranderson.com>; 'Shannon Forshay' <sforshay@potteranderson.com>; 'Ethan H. Sulik' <esulik@potteranderson.com>; 'Elise Melconian' <emelconian@brileysecurities.com>; 'Igor Belov' <ibelov@brileysecurities.com>
Cc: Taft, William <whtaft@debevoise.com>; Weiss, Sara <sbweiss@debevoise.com>; Van Duyn, Andrew

<amvanduyn@debevoise.com>; Weiss, Sara <sbweiss@debevoise.com>; 'Clint M. Carlisle' <Carlisle@rlf.com>; 'Michael J. Merchant' <Merchant@rlf.com>
Subject: RE: ATLS - Operational Motions

[EXTERNAL EMAIL from crceresa@debevoise.com]

Hi all - we would appreciate if we could receive the budget / forecast sooner than later, given timing here. Please let us know when we should expect to receive it.

Thanks,
Chris

Chris Ceresa | Associate | Debevoise & Plimpton LLP | crceresa@debevoise.com | +1 212 909 6970 (Tel) | +1 929 637 1905 (Mobile) | 66 Hudson Boulevard, New York, NY 10001 | www.debevoise.com

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From: Labovitz, Natasha <nlabovitz@debevoise.com>
Sent: Saturday, January 10, 2026 7:06 PM
To: 'Razmig Izakelian' <razmigizakelian@quinnemanuel.com>; Ceresa, Christopher R. <crceresa@debevoise.com>; 'Perry Mandarino' <pmandarino@brileysecurities.com>; Patty Tomasco <pattytomasco@quinnemanuel.com>; QE- ATP-Restructuring <qe-atp-restructuring@quinnemanuel.com>; 'L. Katherine Good' <kgood@potteranderson.com>; 'Brett M. Haywood' <bhaywood@potteranderson.com>; 'Shannon Forshay' <sforshay@potteranderson.com>; 'Ethan H. Sulik' <esulik@potteranderson.com>; 'Elise Melconian' <emelconian@brileysecurities.com>; 'Igor Belov' <ibelov@brileysecurities.com>
Cc: Taft, William <whtaft@debevoise.com>; Weiss, Sara <sbweiss@debevoise.com>; Van Duyn, Andrew <amvanduyn@debevoise.com>; Weiss, Sara <sbweiss@debevoise.com>; 'Clint M. Carlisle' <Carlisle@rlf.com>; 'Michael J. Merchant' <Merchant@rlf.com>
Subject: RE: ATLS - Operational Motions

Razmig, while we understand the budget will be coming tomorrow and we're hoping that will provide some of the information we need, I did want to make sure you know that these questions are still live from our end, and we'll surely need some calls to walk through the budget to the extent you all are relying on it to answer some of the questions. I know a group of us is due to catch up tomorrow to discuss timing of hearing for motions currently set on 1/20, but as of now I think we have to assume the objection deadline will be 1/13, which means we probably should get a call on the calendar.

M. Natasha Labovitz (she/her/hers) | Debevoise & Plimpton LLP | nlabovitz@debevoise.com | +1 212 909 6648 (Tel) | +1 917 573 9401 (Mobile)| www.debevoise.com

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From: Razmig Izakelian <razmigizakelian@quinnemanuel.com>
Sent: Friday, January 9, 2026 1:28 PM

To: Ceresa, Christopher R. <crceresa@debevoise.com>; 'Perry Mandarino' <pmandarino@brileysecurities.com>; Patty Tomasco <pattytomasco@quinnemanuel.com>; QE- ATP-Restructuring <qe-atp-restructuring@quinnemanuel.com>; 'L. Katherine Good' <kgood@potteranderson.com>; 'Brett M. Haywood' <bhaywood@potteranderson.com>; 'Shannon Forshay' <sforshay@potteranderson.com>; 'Ethan H. Sulik' <esulik@potteranderson.com>; 'Elise Melconian' <emelconian@brileysecurities.com>; 'Igor Belov' <ibelov@brileysecurities.com>
Cc: Taft, William <whtaft@debevoise.com>; Labovitz, Natasha <nlabovitz@debevoise.com>; Weiss, Sara <sbweiss@debevoise.com>; Van Duyn, Andrew <amvanduyn@debevoise.com>; Weiss, Sara <sbweiss@debevoise.com>; 'Clint M. Carlisle' <Carlisle@rlf.com>; 'Michael J. Merchant' <Merchant@rlf.com>
Subject: RE: ATLS - Operational Motions

EXTERNAL

Hi Chris, we are gathering responses to your questions and will get back to you as soon as we can.

From: Ceresa, Christopher R. <crceresa@debevoise.com>
Sent: Friday, January 9, 2026 10:26 AM
To: 'Perry Mandarino' <pmandarino@brileysecurities.com>; Patty Tomasco <pattytomasco@quinnemanuel.com>; QE-ATP-Restructuring <qe-atp-restructuring@quinnemanuel.com>; Razmig Izakelian <razmigizakelian@quinnemanuel.com>; 'L. Katherine Good' <kgood@potteranderson.com>; 'Brett M. Haywood' <bhaywood@potteranderson.com>; 'Shannon Forshay' <sforshay@potteranderson.com>; 'Ethan H. Sulik' <esulik@potteranderson.com>; 'Elise Melconian' <emelconian@brileysecurities.com>; 'Igor Belov' <ibelov@brileysecurities.com>
Cc: Taft, William <whtaft@debevoise.com>; Labovitz, Natasha <nlabovitz@debevoise.com>; Weiss, Sara <sbweiss@debevoise.com>; Van Duyn, Andrew <amvanduyn@debevoise.com>; Weiss, Sara <sbweiss@debevoise.com>; 'Clint M. Carlisle' <Carlisle@rlf.com>; 'Michael J. Merchant' <Merchant@rlf.com>
Subject: RE: ATLS - Operational Motions

[EXTERNAL EMAIL from crceresa@debevoise.com]

All - circling back here, please let us know if there is a window today after 430 pm ET to connect live with the right folks on your end.

Thanks,
Chris

Chris Ceresa | Associate | Debevoise & Plimpton LLP | crceresa@debevoise.com | +1 212 909 6970 (Tel) | +1 929 637 1905 (Mobile) | 66 Hudson Boulevard, New York, NY 10001 | www.debevoise.com

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The latest version of our Privacy Policy, which includes information about how we collect, use and protect personal data, is at www.debevoise.com.

From: Ceresa, Christopher R.
Sent: Thursday, January 8, 2026 9:59 PM
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Subject: ATLS - Operational Motions

Perry and Quinn Team,

We continue to review the suite of operational motions and supplements recently filed and wanted to get the below informational and order-related points your way sooner than later, though additional points may follow. We would appreciate if we could set a call on Friday to discuss - please let us know your availability.

We understand Perry's team is working to prepare budgets/forecasts on a debtor-by-debtor basis, which is welcome on our end. We would appreciate if you could please share as soon as those are available. As you are aware, the Debtors' delay in providing detailed budget information, paired with Debtors' motion to extend the deadline to file Debtors' Schedules and Statement of Financial Affairs, is preventing us from fully assessing the pending motions.

Informational Points - Nonexhaustive List

1. OCP
    1. Explain how the Debtors arrived at the potential monthly spend contemplated in the motion (up to $975K /month in the aggregate) and how that is consistent with the budget attached to Perry's declaration which shows significantly less anticipated spending for "Professional Fees - Non-Bankruptcy" and "Professional Fees - Non-Legal" in the 13-week forecast.
    2. The Rigmora LPs received legal services from Proskauer and believe it may be inappropriate for the estate to retain Proskauer as an OCP.
    3. Petra is already compensated through the ATLS budget and fee and, accordingly, should not have separate spending under an OCP order.
    4. Please explain why each of these 13 proposed OCPs are critical and their work cannot be paused or reduced much further during the pendency of the bankruptcy cases.
2. Cash Management
    1. Given the relief sought is to continue in line with prepetition practices, please explain why credit card spending at Evercrisp is high ($28K/month per the Supplement) and provide statements showing that spending.
    2. Please explain what the "legitimate business expenses" are in respect of the use of credit cards and what policies are in place to monitor credit card spending.
3. Employee Wages / Benefits
    1. As we've been discussing, provide detail about the proposed bonuses to be paid to non-insiders, including name/role, whether prepetition, how calculated, and whether they are based on an incentive program or a regular schedule.
    2. Provide an employee census that provides name/role and compensation detail.

Orders – Nonexhaustive Comments

1. Employee Benefits / Wages
    1. The increase in the cap to $70K should be reduced to $50K.

    2. We will have additional comments to conform to the language agreed for purposes of the Wages Interim Order.
2. OCP
    1. Clarify that the Rigmora LPs have the right to object to any OCP declaration filed, as the order appears to only permit "Reviewing Parties" the right to object.
    2. Remove both Proskauer from the OCP schedule.
    3. Clarify that OCPs and the debtors will account for OCP services and expenditures on a debtor-by-debtor basis.
3. Utilities - Include that the Rigmora LPs will receive notice of any changes to the Utilities Schedule (including adding or removing utilities) or changes to the adequate assurance amount.
4. Insurance - Include that the Rigmora LPs will receive notice of any changes in respect of the insurance policies (including renewals and any changes to the schedule of insurance policies).
5. Global - All Operational Motions
    1. Clarify that accounting on the relief requested will be on a debtor-by-debtor basis.
    2. Rigmora LPs require a reservation of rights on these points: (i) to raise arguments that the source, allocation, and characterization of any funding, or proposal to allocate any funds, is not in accordance with LP-approved budgets and are improper and in contravention of the Bankruptcy Code and the terms of the LPA; (ii) the arguments in the motion to dismiss the petitions filed by the Fund, GP and ATLS; and (iii) the Rigmora LPs reserve the right to seek damages against the GP arising from these bankruptcy proceedings, including on the basis that the filings were unlawful or in breach of fiduciary duty.

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EXHIBIT U

IN THE COURT OF CHANCERY
OF THE STATE OF DELAWARE

ATP III GP, LTD.,	:	
IN ITS CAPACITY AS GENERAL PARTNER	:	**C.A. No. 2025-0607-KSJM**
OF ATP LIFE SCIENCE VENTURES, L.P.,	:	
Plaintiff,	:	
	:	
v.	:	
	:	
RIGMORA BIOTECH INVESTOR ONE LP and	:	
RIGMORA BIOTECH INVESTOR TWO LP,	:	
Defendants.	:	
	:	

EXPERT REPORT OF MOHAN RAO, PH.D.

Highly Confidential

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I INTRODUCTION

1. I am an economist and the Chief Executive Officer of Epsilon Economics. I specialize in intellectual property and antitrust economics, with an emphasis on life sciences and technology. I was previously a professor at UCLA and Northwestern University and a Teaching Fellow at Harvard University. I was appointed as the first "Executive in Residence," a recognized leader in the technology community, by the McCormick College of Engineering at Northwestern University. I also am the Chief Executive Officer of Expression Therapeutics Inc., a biotechnology company based in Atlanta that is focused on developing gene and cell therapies for hematology and oncology. I am the lead investor in Expression Therapeutics.

2. I have a Bachelor of Science in Engineering from the University of Michigan, a pre-doctoral fellowship from Harvard University, and a Ph.D. from the University of Colorado. I have taught courses in finance, statistics, game theory, and competition policy and have written on these topics in academic and professional publications. I am an author of the chapter on "Econometric Analysis" in the *Litigation Services Handbook*, "Innovation Markets" in *Market Definition in Antitrust: Theory and Case Studies*, "Valuing Intellectual Property in Licensing Transactions" in the *Licensing Journal*, and "The Best Way to Value Biotech for Deal Making and Investments" in *Intellectual Asset Magazine*. I taught advanced courses on intellectual property valuation and transactions — with an emphasis on pharmaceuticals — at the Licensing Executives Society ("LES"), the leading professional organization for IP valuation and licensing. I developed the course "Advanced Valuation Skills" in the Professional Development Series of LES.

3. I serve on the Board of Directors of the Children's Hospital of Chicago, one of the leading pediatric medical centers in the world, and the Stanley Manne Children's Research Institute, a premier pediatric research center.

4. I have served as an expert witness in litigation and as a consultant in valuation, licensing, and strategy engagements to several pharmaceutical, biotechnology,

and medical devices companies. I have performed economic and damages analyses as an economics expert in a wide range of pharmaceutical matters. I have evaluated numerous pharmaceutical products, including those in early stages of clinical trials and those that have been in the market for a number of years. In 2018, IAM, the publisher of *The World's Leading Patent Professionals* described me as among the foremost experts when it comes to pharmaceutical economics.

5. I have negotiated license agreements involving pharmaceutical technologies. These license agreements have included both in-licensing from academic research institutions and out-licensing to commercial biotechnology firms.

6. I am a member of the American Economic Association, the American Society of Gene and Cell Therapy, the Institute of Electrical and Electronics Engineers, and the LES. I served as the Chair of the Valuation Committee of the LES. A copy of my curriculum vitae is attached as Tab 1.

7. Epsilon Economics bills $1,250 per hour for my work on this matter. I have also been assisted by my team at Epsilon Economics. My compensation is not dependent on the outcome of this litigation.

II ASSIGNMENT

8. I have been retained by ATP III GP Ltd. (the "Plaintiff" or "ATP"), in its capacity as general partner of ATP Life Science Ventures, L.P. (the "Fund"), to provide certain opinions related to claims asserted by ATP against Rigmora Biotech Investor One LP and Rigmora Biotech Investor Two LP (collectively, the "Defendants," "Family Office," or "Rigmora"). I understand that the asserted causes of actions in this matter are: (1) Breach of Contract – Budget Approvals, (2) Anticipatory Breach of Contract – Contributions for Budgeted Companies, (3) Obligation to Act Rationally and in Good Faith, (4) Global Default Charge, and (5) Declaratory

Relief – Proper Actions of General Partner.[1]

9. As part of my work, I have been asked by Counsel to Plaintiff to specifically address the following topics:

- The risk-reward profile associated with investing in early-stage life science companies;
- The nature of the investment time horizon (*e.g.*, until an exit event) and magnitude associated with early-stage life science companies; and
- The impact of providing 'drip' capital (*e.g.*, providing funding to enable a company to operate in the short-term, with uncertain subsequent funding) in the operation of early-stage life science companies.

10. In conducting my analysis and forming my opinions, I have reviewed the Complaint; various documents produced in this litigation including valuations, investment memoranda, budget approvals, quarterly reports, and presentations associated with the subject companies; deposition testimony and exhibits; and publicly available information, including economic and financial information. A list of materials that I relied upon in forming the opinions set forth in this Expert Report is attached as Tab 2.

III SUMMARY OF OPINIONS

11. Based on my analysis of the documents and other information produced in this matter, publicly available information, and on my education and experience, I have reached the following opinions and conclusions:[2]

[1] Verified Complaint, May 30, 2025, paragraphs 155-196.

[2] I reserve the right to supplement or modify my opinions in this matter, including in response to any additional evidence, arguments, or opinions submitted in connection with this matter.

- The thirteen Portfolio Companies are all considered early-stage life science companies.[3] The general expectation for such companies is that each would have a relatively low probability of obtaining FDA approval for a drug candidate, and achieving that approval would take many years and may cost $100+ million. However, obtaining FDA approval would be expected to result in significant revenues and profits. Therefore, these types of investment opportunities are categorized as high-risk/high-reward;[4]

- Obtaining FDA approval requires successfully moving a drug candidate into clinical (human) trials and then completing a series of clinical trials, with significantly escalating costs at each stage. Therefore, an early-stage life science company's funding requirements materially increase the further one moves through the drug approval process from pre-clinical to Phase 1 to Phase 2 and to Phase 3 clinical trials. Because of the escalating costs, early-stage life science companies are often acquired by larger pharmaceutical companies following the achievement of a drug candidate's proof-of-concept, for example, by successfully completing Phase 1 or Phase 2 clinical trials;

- An absence of adequate and reliable funding for early-stage life science companies carries considerable risk and can have long-term negative consequences. Therefore, recognizing the years-long, expensive, and high-risk/high-reward nature of investing in early-stage life science companies, it would generally not be economically rational to cease funding such a company, or to only provide funding to enable a company to operate in the short-term, with uncertain sub-

[3]The thirteen subject companies in this matter — the Portfolio Companies — are Aethon, Apertor, Ascidian, Aulos, Deep Apple, Evercrisp, Initial, Marengo, Marlinspike, Nereid, Nine Square, Red Queen, and Replicate. Twelve are categorized as Series A and one as Series B. The furthest developed drug candidate in nine of the companies is pre-clinical, one has a Phase 1 candidate, and three have Phase 2 drug candidates.

[4]The Portfolio Companies are diversified across therapeutic areas, modalities, and indications, which reduces the risk of factors/circumstances negatively impacting the entirety of the portfolio. Therefore, at a given time, it is highly unlikely that there would be a systemic rationale related to company/industry performance to stop funding all of the Portfolio Companies.

sequent capital inflows — barring circumstances such as a scientific 'road block' or the failure of a drug candidate during development — due to the long-term detrimental impacts on the company, which increase the likelihood of never recouping, let alone realizing, a return on the 'sunk' investment; and

- Defendants' purported reasons to cease funding certain of the Portfolio Companies (*i.e.*, the Early-Stage Companies, as listed by Rigmora — Deep Apple, Red Queen, Aethon, Apertor, Evercrisp, Marlinspike, and Initial) are not supported or substantiated.[5]

12. As of the end of Q1-2025, ATP's total investment in the Portfolio Companies (for ownership percentages ranging from approximately 70% to 90%) was $577.8 million, with an ATP average investment per company of $44.5 million; and the cumulative fair value of these ATP investments is listed as $756.8 million.[6]

[5]Defendants did not, for each of these companies, (1) appropriately assess the technical/scientific merits, (2) analyze the amount of money that would be required to achieve milestones as compared to the remaining approved budgets, and (3) assess third-party interest (*e.g.*, an equity investment, partnership, collaboration, and/or license).

A document titled "Investment and Milestones" (marked as Exhibit 23 and prepared by Mr. Liras of ATP) as well as another (marked as Exhibit 24 and prepared by Mr. Jardine of ATP) were discussed in Dr. Harrison's deposition. Exhibit 23 provides for Apertor, Deep Apple, Evercrisp, Initial, Nereid, and Nine Square the following information: Series A funding versus approved budget (May 2025), forecasted goals for fully funded Series A, deliverables (May 2025), comments, and an overall assessment. The information presented in Exhibit 23 indicates that: (1) for four of the six companies the Series A funding was less than the approved budget, and for two companies (Nereid and Nine Square) the Series A funding was equal to the approved budget, and (2) ATP's "overall assessment" was that Apertor, Deep Apple, and Nereid were at an "exceeds" level, and Evercrisp, Initial, and Nine Square were at an "on target" level. Further, the exhibits indicate that Aethon "pivoted to developing a pan RAS targeting antibody and p53 covalent small molecule," Apertor "pivoted to proximity induced inhibitors," Deep Apple "[e]xpanded pipeline to breadth vs. depth," Evercrisp "[p]ivoted to mini-protein AI enabled design," and Initial "[f]ocused strategy entirely on oncology undruggable transcription factors" (Deposition of Dr. Seth Harrison, Volume 2, August 12, 2025, pages 307-308 and 350-351; and Exhibits 23 and 24).

[6]*See* Tab 3; Tab 4; and ATP Life Science Ventures, LP, First Quarter 2025 Report, as of March 31, 2025, ATP_00004687–ATP_00004706, at ATP_00004690. Amounts rounded. Valuations of ATP's holdings in the Portfolio Companies, as of December 31, 2024, were performed by a third-party (DiFilippo Corporate Finance Group, LLC) and generally, as subsequently discussed, based on the invested capital, with market and company-specific adjustments.

IV BACKGROUND

A Allegations

13. I understand this matter arises from the Family Office's alleged (1) refusal to fund capital calls that it is contractually obligated to meet that are necessary to sustain the Fund's early-stage companies engaged in drug discovery and research, and (2) arbitrary and irrational refusal to approve new budgets for the Fund's more mature companies that have product candidates in clinical trials, but who require additional funding.[7] I understand that the effect of these actions is financially harmful, depriving the Fund's portfolio companies of the capital necessary to avoid shutdown or bankruptcy.[8]

14. According to ATP, the Family Office's tactics are:

> (1) for the portfolio companies with approved budgets, the Family Office LP preemptively refused to fund any future capital calls and explicitly warned ATP not to issue any further calls properly made against those budgets, other than those for *de minimis* shutdown costs; and (2) for companies without remaining budgeted amounts, the Family Office LP refused to approve *any* budget for continued operations, which refusal is neither commercially reasonable nor in good faith, thereby preventing ATP from issuing capital calls that the Family Office LP would be required to fund.[9]

15. ATP alleges that Defendants have $545.5 million in outstanding budgets and committed funds for the Portfolio Companies, consisting of $331.3 million of committed (but unbudgeted) funds, and $214.2 million under budgets (but not yet called) already approved by the Family Office.[10]

[7] Verified Complaint, May 30, 2025, paragraph 1.
[8] Verified Complaint, May 30, 2025, paragraph 3.
[9] Verified Complaint, May 30, 2025, paragraph 3.
[10] Verified Complaint, May 30, 2025, paragraph 5.

B Parties & Relationship

16. An overview of Apple Tree Partners ("ATP"), led by Dr. Seth Harrison, is:[11]

Apple Tree Partners (ATP) snapshot

More than 25 years of success in founding and building biotech companies

- Founded in 1999; one of the first venture capital firms created to focus exclusively on life sciences
- Top-tier returns on investments
- Company creation and ongoing investment

Seasoned team of top biopharma execs provides "hub and spokes" management expertise for portfolio

- Leveraging deep bench of in-house expertise in critical areas for ATP startups
- ATP Labs (in house CRO) assures access, efficiency, and quality through PoC
- Many C-level positions in Seed and Series A portfolio held by ATP executives in first years of operations

Close working relationships with eminent scientists and entrepreneurs

- Long standing close relationships between ATP venture partners and leading scientists, including Nobel Prize and Breakthrough Prize recipients
- Creates foundational IP for portfolio companies

17. Mr. William Engels (acting Chief Financial Officer of ATP via a contract with Petra Fund Services) described ATP as "a very early stage life science venture capital fund with 2.5 billion of committed capital."[12]

18. Defendants Rigmora Biotech Investor One LP and Rigmora Biotech Investor Two LP — the Family Office or Rigmora — is made up of affiliates of the Family Office of Dr. Dmitry Rybolovlev, a Russian-born citizen of Cyprus.[13]

19. I understand that Dr. Rybolovlev and Dr. Harrison began with $100 million to make investments under Dr. Harrison's direction, and in 2012 they formed the Fund and agreed that ATP would use a $1.5 billion capital commitment from the Family Office to the Fund to make early-stage investments in a variety of companies.[14] Dr. Rybolovlev subsequently provided an "additional $1 billion in 2020 (memorialized in Amendment No. 18), which underpins the early-stage companies [the Portfolio Companies]."[15]

[11] Apple Tree Partners Overview for Investors, January 2025, ATP_00078859–ATP_00078981, at ATP_00078861.
[12] Deposition of William Engels, August 7, 2025, pages 17 and 158.
[13] Verified Complaint, May 30, 2025, paragraph 1.
[14] Verified Complaint, May 30, 2025, paragraph 28.
[15] Verified Complaint, May 30, 2025, paragraph 36.

C The Fund's Portfolio Companies

20. The following provides a summary of the Fund's portfolio companies (the "Portfolio Companies"), their corresponding key assets, and the Fund's initial investment date:[16]

Company	Primary Assets	Initial Investment Date
Aethon	p53Y220C, PAN KRAS TCE, P53 Multi	Nov 2022
Apertor	AP414, CRAF	Nov 2020
Ascidian	**Ph 2 (ACDN-01)**, MSH3	Jun 2021
Aulos	**Ph 2 (AU-007)**	Oct 2020
Deep Apple	MRGPRX2, MC4R	Dec 2021
Evercrisp	Kidney Disease, Muscle	Aug 2021
Initial	Pan AR	Jul 2020
Marengo	**Ph 2 (STAR0602)**, TriStar701, AI	Jun 2021
Marlinspike	SF3B1	Feb 2022
Nereid	Myc, TDP43, BCL-9	Oct 2020
Nine Square	Parkin, TRPML1	Jun 2020
Red Queen	Pan Flu, Covid	Oct 2021
Replicate	**Ph 1b (Rabies)**, EBV, ComboVax	Feb 2021

I understand that on May 30, 2025, the following capital calls were made to the Family Office: Aethon ($5.0 million), Apertor ($7.1 million), Ascidian ($6.0 million), Deep Apple ($9.0 million), Evercrisp ($7.0 million), Initial ($7.0 million), Marengo ($29.96 million), Marlinspike ($6.3 million), Red Queen ($6.4 million), and Replicate ($4.0 million) — but have not been paid (Deposition of Yuri Bogdanov, August 8, 2025, page 280; Letter from ATP to Rigmora re: Capital Call – Aethon, May 30, 2025, RIGMORA00000734–RIGMORA00000736; Letter from ATP to Rigmora re: Capital Call – Apertor, May 30, 2025, RIGMORA00000740–RIGMORA00000742; Letter from ATP to Rigmora re: Capital Call – Ascidian, May 30, 2025, RIGMORA00000743–RIGMORA00000745; Letter from ATP to Rigmora re: Capital Call – Deep Apple, May 30, 2025, RIGMORA00000755–RIGMORA00000757; Letter from ATP to Rigmora re: Capital Call – Evercrisp, May 30, 2025, RIGMORA00000761–RIGMORA00000763; Letter from ATP to Rigmora re: Capital Call – Initial, May 30, 2025, RIGMORA00000770–RIGMORA00000772; Letter from ATP to Rigmora re: Capital Call – Marengo, May 30, 2025, RIGMORA00000773–RIGMORA00000775; Letter from ATP to Rigmora re: Capital Call – Marlinspike, May 30, 2025, RIGMORA00000776–RIGMORA00000778; Letter from ATP to Rigmora re: Capital Call – Red Queen, May 30, 2025, RIGMORA00000788–RIGMORA00000790; and Letter from ATP to Rigmora re: Capital Call – Replicate, June 1, 2025, ATP_00003921–ATP_00003923).

[16] *See* Tab 3; and Verified Complaint, May 30, 2025, paragraph 9.

Three of the companies are listed as having assets in Phase 2 clinical trials, one with an asset in a Phase 1 trial, and the balance of companies' 27 programs are considered pre-clinical stage.

21. As shown below, the Portfolio Companies' therapeutic areas, modalities, and/or indications are diversified, which serves to lessen the risk of the portfolio as a whole.[17]

Company	Therapeutic Area	Modality	Indication
Aethon	Oncology	Biologic	Lung/colorectal cancers
Apertor	TBD	Small molecule	TBD
	Oncology	Small molecule	Metastatic renal cell carcinoma
Ascidian	Ophthalmology	Gene therapy	Stargardt disease
	Neurology	Gene therapy	Alzheimer's disease
	Neurology	Gene therapy	Duchenne muscular dystrophy
	Neurology	Gene therapy	Huntington's disease
	Neurology	Gene therapy	Rett syndrome
Aulos	Oncology	Biologic	Solid tumors
Deep Apple	Metabolic Disorder	Small molecule	Obesity
	Autoimmune Disease	Small molecule	Inflammatory bowel disease
	Dermatology	Small molecule	Atopic dermatitis
	Neurology	Small molecule	Migraine
	Metabolic Disorder	Small molecule	Hypothyroidism
EverCrisp	Metabolic disorder	Genome editor	Acute intermittent porphyria
	Oncology	Genome editor	Hepatocellular carcinoma
	Neurology	Genome editor	Myotonic dystrophy
Initial	Oncology	Small molecule	Prostate Cancer
	Oncology	Small molecule	TBD
Marengo	Oncology	Biologic	Solid tumors
	Oncology	Biologic	PD1-refractory tumors
Marlinspike	Oncology	Small molecule	Breast cancer (TNBC)
Nereid	Oncology	Small molecule	TBD
	Neurology	Small molecule	Amyotrophic Lateral Sclerosis
Nine Square	Neurology	Small molecule	Amyotrophic Lateral Sclerosis
	Neurology	Small molecule	Parkinson's disease
Red Queen	Virology	Biologic	Influenza
	Virology	Biologic	Nipah
	Virology	Biologic	Parainfluenza
Replicate	Oncology	Gene therapy	Breast cancer
	Virology	Gene therapy	Rabies
	TBD	Gene therapy	TBD
	Autoimmune Disease	Gene therapy	TBD

[17] 3Q23 Milestone Tracker, ATP_00131032. The Portfolio Companies' therapeutic areas, modalities, and indications evolved over time.

D Valuation of Early-Stage Drugs & Companies

22. Bringing a new drug to market is an expensive, risky, and time-consuming process that can take years and hundreds of millions of dollars. To value a drug using an Income Approach (the 'gold standard' that determines value based on expected future cash flows), one must estimate the drug's future sales, regulatory risks, and development costs. Such an evaluation is complex because analyzing each of these factors, in turn, requires evaluation of other factors.[18]

23. Discounted Cash Flow ("DCF") models are commonly used to value drugs in development or those that have been commercialized. In a DCF model, future cash flows are projected and then discounted to a present value known as the Net Present Value ("NPV"). This process requires forecasting sales and then deducting expenses such as royalties, cost of goods sold, distribution, selling, general and administration, medical, research and development, changes in working capital, and taxes to determine anticipated future cash flows. Due to the time-value of money, the further out the cash flow, the less value it has today (*i.e.*, on an NPV basis).

[18]For example, to forecast a drug candidate's futures sales, one must identify or assess, among other things:

- The target indication;
- The timing to complete each development phase until launch;
- The target market size using either a bottom-up or top-down approach (a bottom–up approach calculates market size by evaluating the number of patients, number receiving treatment, and price of treatment per patient; and a top–down approach estimates the drug candidate's future sales by extrapolating sales of existing products in the same therapeutic class);
- The drug's market share (assuming approval), which is affected by existing competition, as well as other drugs in development, relative advantages in efficacy, dosing, pricing, and side effects;
- The market's annual growth and life cycle curve, which depend on the number of competitors, entry of generics, and exclusivity period; and
- The drug's projected price (and increases and decreases), which depends on relative therapeutic differentiation to existing products, switching costs, and insurance coverage.

See for example, Ex. 07: "A Complete Guide to Pharma And Biotech Valuation and Best Practices," BiopharmaVantage, May 5, 2024; and Ex. 09: Amitabh Chandra and Sumon Mazumdar, "Biotech Asset Valuation Methods: A Practitioner's Guide," Journal of Investment Management, Vol. 22, No. 1, (2024), pages 36–57. Another consideration, if the forecast is being done for a specific company, would be the financial resources and priorities of the specific company.

A key step in a DCF model is forecasting sales, which involves a number of inputs. I generally describe this process. To create a meaningful forecast, first, the Target Product Profile needs to be identified, which outlines the desired characteristics and objectives of the new drug product and includes, for instance: the target indication(s), efficacy endpoints, desired safety profile, administration and dosage, and, ultimately, the extent to which the drug candidate is differentiated in the marketplace from other therapeutic options. Once the Target Product Profile is identified, one can forecast revenues either through a bottom-up or top-down approach.[19]

24. For clinical stage drugs, the standard DCF model cash flow projection is typically risk-adjusted to account for the probability of successfully advancing through clinical trials and regulatory approval (often referred to as the risk-adjusted NPV or rNPV). In my experience, it is unusual for established companies to value very early stage projects using an Income Approach in the ordinary course of business due to the significant developmental risks and absence of a Target Product Profile, which

[19]In a bottom-up approach, the target population is estimated and then narrowed down to the addressable market based on disease prevalence, incidence, and demographics. This is often done based on an epidemiology study that assesses the distribution and growth rate of a disease in a population, incidence rates, and diagnosis rates. The drug's penetration rate into the addressable market is then estimated, often based on input from KOLs (key opinion leaders) and/or comparison to benchmark drugs. Considerations would include the therapeutic need, relative efficacy, relative safety, and launch order, as well as physician prescribing behavior. After the number of addressable patients is estimated, consideration is given to, for example, dosing initiation, number of doses, persistence, and patient compliance and drop-off rates. Pricing is applied to the forecasted number of annual patients to calculate annual sales. Pricing considerations would include manufacturing costs, the gross-to-net discount, prices of alternatives, relative efficacy and safety, anticipated payer coverage, reimbursement rates, and price increases or declines over time. The start date of the revenues needs to be estimated based on the anticipated timing of transitioning though all the development stages (*e.g.*, Pre-clinical, Phase 1, Phase 2, Phase 3, NDA/BLA, and FDA Approval), as well as manufacturing considerations. The revenue ramp-up and ramp-down curves (or market share capture) over time are forecasted to account for physician prescribing behavior, competitive factors such as new or generic drugs entering the market, and patent protection. Lastly, for drugs not yet approved, the probabilities of successfully transitioning through each stage are estimated to determine the expected or risk-adjusted revenues.

In a top-down approach, "benchmark" or "comparable" drugs with a similar Target Product Profile are identified. These drugs' historical revenues form the basis for the forecast. The historical data is adjusted to account for, for example, order of market entry, number of therapeutic options, relative efficacy and safety, and anticipated payer coverage and reimbursement. Like in the bottom-up approach, the launch date and probabilities of successfully transitioning through each stage also need to be estimated.

make such valuations highly variable and sensitive to inputs.

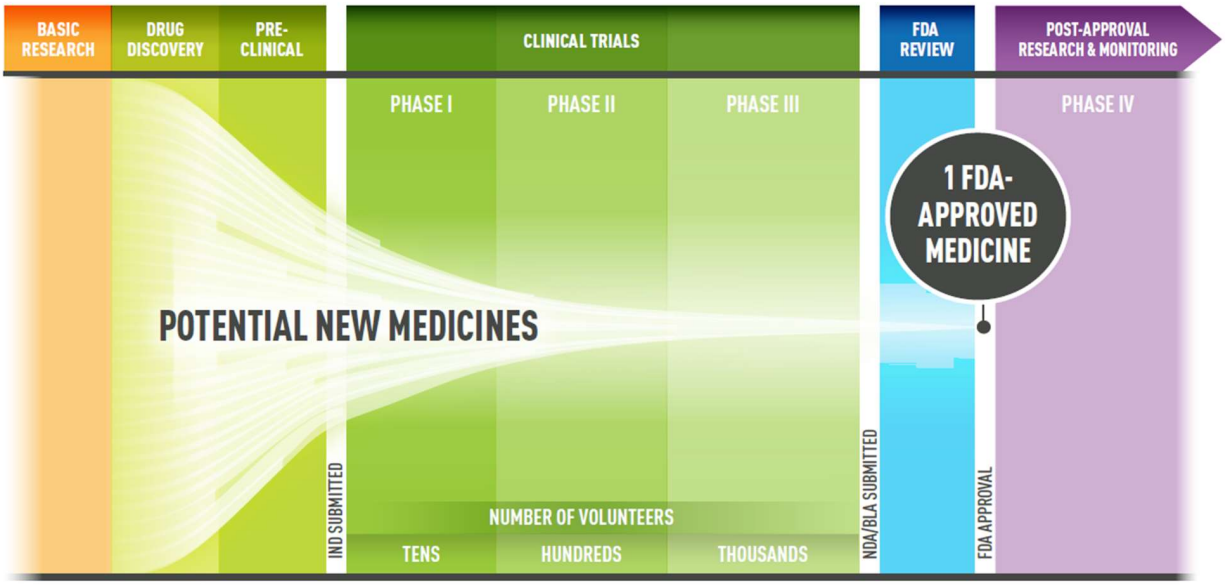
25. In assessing the probability of success ("POS") of a drug's development (or clinical and regulatory risk), it is important to understand the drug development process, which I describe below. The drug development process begins with the drug discovery phase, which involves identifying potential drug candidates. After a promising drug candidate is identified, the pre-clinical phase begins, which involves *in vitro* ("test-tube experiments") and/or *in vivo* (studies on living organisms or cells), including animal studies. Based on results from the animal studies, a drug construct may be selected as a lead candidate for further development. The drug manufacturer submits an Investigational New Drug ("IND") application to the FDA to request approval to begin clinical research (*i.e.*, to dose in humans). After multiple phases of clinical trials have concluded, the drug manufacturer may submit its clinical trial results to the FDA.[20] There is substantial risk that a phase will not complete successfully.

Drug Development: Phases

26. The drug development process can be broken down into the following primary stages:[21]

[20] Typically, companies first seek FDA approval, which they then use to seek approval in other geographies so the drug can be sold there also.

[21] *See for example*, Ex. 10: Boris Bogdan and Ralph Villiger, VALUATION IN LIFE SCIENCES, A PRACTICAL GUIDE, Second Edition (Springer), 2008, pages 11-14; and Ex. 06: "2016 Profile, Biopharmaceutical Research Industry," PhRMA, 2016, pages 47-53.



- Drug Discovery: target identification, target validation, and lead optimization;
- Pre-clinical Testing: once a lead compound is selected, its safety has to be tested in animals before human testing takes place;
- Clinical Trials:
  - Phase 1: the first phase of drug testing in humans. This phase is conducted in a small group of healthy volunteers or patients with the disease of interest and is designed to evaluate safety, dosing, and side effects;
  - Phase 2: the drug is studied on a larger group of people with the disease of interest to test efficacy and to identify side effects; and
  - Phase 3: the drug is tested on an even larger group of patients. The main aims are to confirm efficacy, monitor adverse reactions, establish dosing, and to assess whether the drug is more effective than other competing treatments.[22]
- Approval: after a Phase 3 clinical trial has successfully concluded, the drug manufacturer may submit its clinical trial results to the FDA as part of a drug

[22] Sometimes multiple Phase 3 studies are required.

application package. FDA scientists review the application, and after weighing the compound's benefits and risks, they decide whether or not to grant approval.

27. After approval from the FDA, a pharmaceutical company typically files for approvals from other regulatory authorities, such as the European Medicines Agency ("EMA," for the European Union and the European Economic Area) or the Pharmaceuticals and Medical Devices Agency ("PMDA," for Japan).

Drug Development: Cost

28. One commonly cited source provides median out-of-pocket costs for Phase 1 at $17.3 million, Phase 2 at $44.8 million, and Phase 3 at $200 million,[23] which do not account for the costs of other compounds abandoned during testing that were linked to those obtaining FDA approval, as well as the potential return the company forgoes by investing in drug development. Considering these other costs — the average cost of a new drug is in excess of $1 billion.[24]

Drug Development: Timing

29. Illustrative timing data of the drug development process, by phase, are:[25]

[23]Ex. 14: Joseph A. DiMasi, Henry G. Grabowski, and Ronald W. Hansen, "Innovation in the pharmaceutical industry: New estimates of R&D costs," Journal of Health Economics, Vol. 47 (2016), pages 20-33, Table 2 in 2013 dollars.

[24]Ex. 14: Joseph A. DiMasi, Henry G. Grabowski, and Ronald W. Hansen, "Innovation in the pharmaceutical industry: New estimates of R&D costs," Journal of Health Economics, Vol. 47 (2016), pages 20-33, Abstract.

[25]Ex. 11: David Thomas, *et al.*, "Clinical Development Success Rates and Contributing Factors 2011-2020," Biotechnology Innovation Organization, Informa, and Quantitative Life Sciences, February 2021, page 24 — durations based on 6,151 successful phase transitions over the 2011–2020 period; and Ex. 14: Joseph A. DiMasi, Henry G. Grabowski, and Ronald W. Hansen, "Innovation in the pharmaceutical industry: New estimates of R&D costs," Journal of Health Economics, Vol. 47 (2016), pages 20-33, Table 4. Data regarding the phases prior to clinical testing are commonly not publicly available. Phase duration can vary materially according to numerous factors, such as disease area.

Phase	**DiMasi (2016)**	**Thomas (2021)**
Lead Optimization	Unknown*	Unknown*
Pre-clinical Testing	Unknown*	Unknown*
Phase 1 Clinical Trial	2.8 yrs.	2.3 yrs.
Phase 2 Clinical Trial	3.2 yrs.	3.6 yrs.
Phase 3 Clinical Trial	3.8 yrs.	3.3 yrs.
FDA Approval	1.3 yrs.	1.3 yrs.
Cumulative	>11.0 yrs.	>10.5 yrs.

* Timing information for these stages is not typically made public by pharmaceutical companies

30. In addition to the length of time spent within each phase, a pharmaceutical company may also spend time closing out one phase and preparing to enter into the next phase of drug development.[26] Further, the above timing does not account for regulatory approval in non-U.S. geographies.

Drug Development: Probabilities of Success

31. Of the hundreds of compounds identified in the discovery phase of drug development, only a few advance far enough to be even tested on animals. Based on results from the animal studies, one of these drug constructs may be selected as a lead candidate for further development. This next step involves conducting IND-enabling studies for an IND, an application package that a drug developer submits to the FDA for approval to conduct human clinical trials. There are generally no systematic studies of how many drug candidates identified in the discovery stage make it to the IND application stage, but it is likely a small fraction of drug candidates. At Expression Therapeutics, the biotechnology company I manage, we have tested well

[26] *See for example*, Ex. 14: Joseph A. DiMasi, Henry G. Grabowski, and Ronald W. Hansen, "Innovation in the pharmaceutical industry: New estimates of R&D costs," Journal of Health Economics, Vol. 47 (2016), pages 20-33, Table 4.

over a hundred drug constructs before selecting one to be our lead candidate that we submitted to the FDA as part of our IND application package.

32. Once a drug enters clinical (*i.e.*, human) trials, there is more extensive data on how many drugs are in each phase of clinical trial, by type of compound and therapeutic class, and the likelihood of a drug moving from one phase of clinical trial to the next (say, Phase 1 to Phase 2).

33. Illustrative probability data of the drug development process, by phase, are:[27]

Phase	**DiMasi (2016)**	**Thomas (2021)**
Lead Optimization to Pre-clinical	Unknown*	Unknown*
Pre-clinical to Phase 1	Unknown*	Unknown*
Phase 1 to Phase 2	59.5%	52.0%
Phase 2 to Phase 3	35.5%	28.9%
Phase 3 to NDA/BLA	62.0%	57.8%
NDA/BLA to FDA Approval	90.4%	90.6%
Cumulative	<11.8%	<7.9%.

* Success/failure information for these stages is not typically made public by pharmaceutical companies

34. Based on the above data, the historical probability of successfully moving from Phase 1 through FDA Approval is approximately 10%. There is also risk of successfully transitioning from the Lead Optimization and Pre-clinical stages to Phase 1. One source states that the "success rates for lead optimization are 70%, and 65% for preclinical development for the average drug, independent of disease group."[28]

[27]Ex. 11: David Thomas, *et al.*, "Clinical Development Success Rates and Contributing Factors 2011-2020," Biotechnology Innovation Organization, Informa, and Quantitative Life Sciences, February 2021, page 6 — for all diseases and modalities; and Ex. 14: Joseph A. DiMasi, Henry G. Grabowski, and Ronald W. Hansen, "Innovation in the pharmaceutical industry: New estimates of R&D costs," Journal of Health Economics, Vol. 47 (2016), pages 20-33, Figure 1. Probabilities can vary materially according to numerous factors, such as disease areas.

[28]Ex. 10: Boris Bogdan and Ralph Villiger, VALUATION IN LIFE SCIENCES, A PRACTICAL GUIDE, Second Edition (Springer), 2008, page 16.

Another source provided a range of pre-clinical POS, from a low of 41% (for biologics and vaccines), 55%–65% (for new chemical entities), and to a high of 75% (for a repurposed drug).[29] Although data regarding POS rates for phases prior to the clinical phases are not widely tracked and reported, the industry recognizes the substantial risk.

35. Thus, in an Income Approach, the valuation of an early-stage drug candidate (especially a pre-clinical drug candidate) is highly uncertain and the resulting value is substantially discounted to account for the low probability that it will achieve FDA approval and be commercialized. Generally, very early stage drugs are not valued using an Income Approach for this reason.

E Venture Capital Financing

i General

36. Venture capital ("VC") is a form of private equity financing typically provided to early-stage, high-growth potential companies, often startups. VC firms typically invest in these companies in exchange for equity, expecting high returns if and when a company achieves success, like an IPO or acquisition. Such investments are a high-risk, high-reward strategy where VCs provide not only funding, but often also strategic guidance and industry connections.[30]

37. Key players in VC are the venture capitalists themselves that invest in the companies, limited partners (LPs) who are the investors that provide the capital for VC funds, and general partners (GPs) who are the managers of VC funds and are responsible for sourcing deals, managing investments, and overseeing operations.[31]

[29] Ex. 16: Ryan Kimmitt and Marcela Vieira, "Research Synthesis: Time and Success Rates of Pharmaceutical R&D," last updated July 2020, Knowledge Network on Innovation and Access to Medicines, Global Health Centre, page 12.

[30] *See for example*, Ex. 04: "What is venture capital?," <www.svb.com/startup-insights/vc-relations/what-is-venture-capital>.

[31] *See for example*, Ex. 13: Ivelina Nifyhontas, "The Anatomy of a Venture Capital Firm: Understanding Structure and Operations," GoingVC, May 9, 2024.

38. The financing pattern of venture capitalists typically follows a series of funding rounds: pre-seed, seed, Series A, Series B, Series C, and sometimes Series D. Funding amounts generally increase with each VC investment stage, and each stage represents a different level of company maturity and investor risk tolerance. There are typical business activities and funding sources are associated with each of the various VC stages.[32]

ii Life Sciences

39. There are a number of key differences when comparing the lifecycle of an early-stage life science company versus a traditional tech startup. Traditional startup

[32]Typical business activities and funding sources include:

1. Pre-Seed – boot-strapping to "get off the ground"
   - Business activities: developing business concept, working on partnership agreements, obtaining patents/copyrights, creating pitch deck
   - Funding sources: founder, family, friends, micro VCs
2. Seed – secure enough funding to prove to future investors there is capacity to grow and scale (often the most expensive funding in terms of equity given up to secure the investment)
   - Business activities: creating product/prototype, getting business running, fundraising
   - Funding sources: founder, family, friends, angel investors, early VCs
3. Series A – obtain capital to grow and scale (typically the first round of VC financing)
   - Business activities: researching industry/markets, writing business plan, marketing/advertising, generating revenue, planning to scale
   - Funding sources: accelerators, super angel investors, VCs
4. Series B – obtain capital to support product manufacturing, marketing, and sales (typically a much larger capital investment than earlier ones)
   - Business activities: expanding consumer interest, establishing commercially viable product/services, scaling production/marketing/sales
   - Funding sources: VCs, corporate venture capital funds, family offices
5. Series C & Beyond – obtain capital to build on proven success
   - Business activities: building new products/markets, establishing strong customer base, acquiring other companies
   - Funding sources: late-stage VCs, private equity firms, hedge funds, banks
6. Exit through IPO or sale.

(Ex. 18: "Stages of venture capital," Silicon Valley Bank, VC Relations, undated).

frameworks or strategies such as the "lean startup," "minimum viable product," and "build-measure-learn" do not directly translate to building and operating a life science startup.

40. Some aspects unique to life science early-stage companies include:[33]

- Stringent testing before the drug can enter clinical trials, followed by successful completion of clinical trials before it can be approved/marketed. This requires significant scientific labor to identify drug compounds or platform technologies, and many years to determine the drug's safety and efficacy profiles in humans;
- A drug development pipeline capital requirement that is magnitudes greater than what most tech startups spend;
- An arduous process of pivoting a drug compound into a new compound. Regulators require a high level of pre-clinical data, whereas tech startups can pivot based on feedback from beta testers and initial customers;
- A marketing strategy limited by FDA regulation, as life science companies require regulatory approval prior to selling their drug products;
- Revenue streams that are dependent on reimbursement policies from private health insurance providers and government-based programs. A new drug's relative efficacy versus other alternative drugs and treatment options is critical;
- An outsized role of 'first mover advantage' in determining a drug's total addressable market due to physician lock-in, reimbursement approvals, and exclusivity periods; and
- Clinical trials and FDA 'checkpoints' that serve as major binary events for life science startups. These checkpoints affect a company's value and ability to raise

[33] *See for example*, Ex. 19: "The Biotech Company Lifecycle: Examining the role of venture in biotech investment," PitchBook, October 23, 2020, pages 3-4.

additional capital, and investors use these checkpoints to determine or reassess the probability of success and likelihood of approval of a drug asset.

41. Life science startups are long-term endeavors with short-term, as well as on-going and escalating capital needs. Long drug-development cycles align with the general illiquid nature and timeline of VC investments, as life science companies typically need multiple rounds of follow-on financing as they advance through clinical trials. This permits venture capitalists to invest at multiple points in the company lifecycle. Furthermore, the risk-reward profile of an early-stage life science company tends to align with venture capitalists looking for the rare 'moonshot' that provides extraordinary returns.

42. Since 2012 through today, biotech venture capital flows experienced dramatic growth and then a market correction. This cycle may be categorized into three periods:[34]

1. Steady Ascent (2012-2017): capital raised increased from $12.1 billion to $44.7 billion, reflecting growth in fund count (81 to 241) and average fund size;

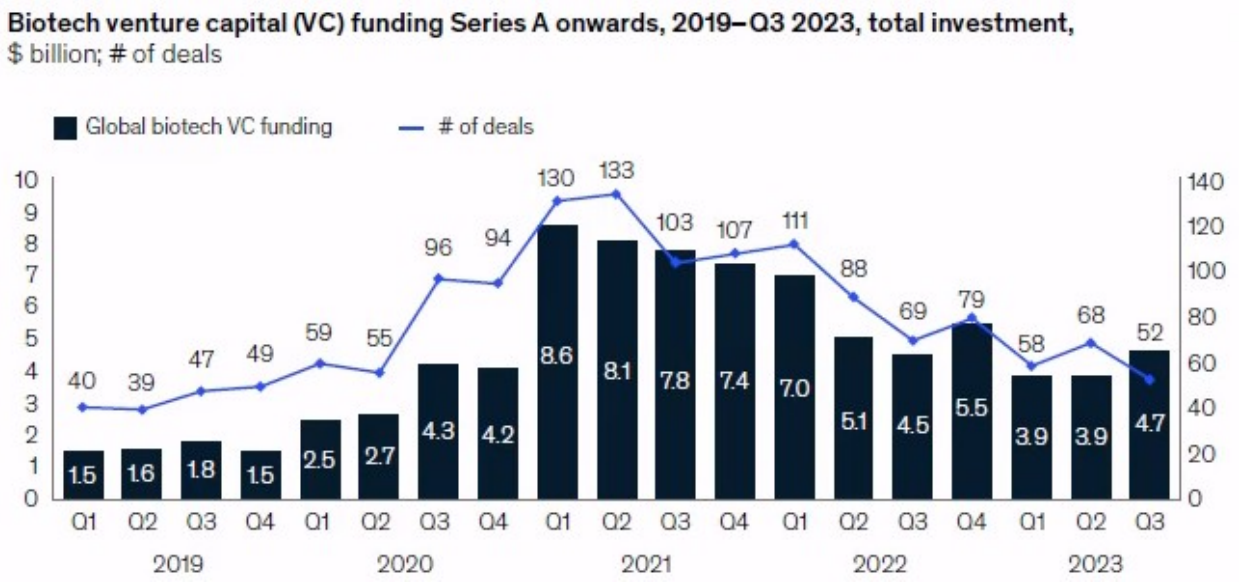
2. Explosive Expansion (2018-2021): fundraising accelerated dramatically during this period, with capital peaking at $152.3 billion in 2018 before moderating to $51.9 billion in 2020. Fund count continued climbing to peak at 309 in 2021. This period saw unprecedented fundraising; and

3. Market Rationalization (2022-2024): after $48.8 billion in 2021, fundraising declined to $12 billion in 2024. Fund count fell from its 309 peak in 2021 to just 46 in 2024.

43. However, "[a]mid a challenging public-market environment, venture capital (VC) funding has provided a much-needed lifeline to fuel biotech innovation... VC funding has consistently remained robust and elevated above prepandemic levels...

[34]Ex. 20: "The Evolution of Biotech VC Funds," PitchBook, Emerging Tech Research, May 29, 2025, page 3. Data is global.

Overall declines have largely been driven by a lower number of deals, while median deal size has remained consistent. Investors continue to favor innovation, with Series A funding rounds accounting for almost half of all deals. . . Although VC funding has faced some fluctuations, VC investors appear to still be excited about the [biotech] sector's long-term potential."[35]



44. The impact of external/macro factors on life science company valuations may be assessed by analyzing public market indices, as was done (as subsequently discussed) in the Portfolio Companies valuation reports.

V ANALYSIS & OPINIONS

A Funding of the Portfolio Companies

45. I understand that the "parties' Limited Partnership Agreement [] requires the Family Office LP to contribute capital when ATP makes a capital call for portfolio companies so long as the Family Office LP has already approved budgets for those companies. And for the first ten-plus years of the relationship between ATP and the

[35]Ex. 21: "What early-stage investing reveals about biotech innovation," McKinsey & Company, Life Sciences Practice, December 2023, pages 2-4.

Family Office LP, this approach worked without fail: ATP would present investment memoranda to the Family Office LP, followed by proposed budgets for approval; the Family Office LP would approve them, sometimes without comment or question, and sometimes after reasonable, commercially-focused inquiry or comment; ATP would call for capital from time to time against the approved budgets; and the Family Office LP would meet its obligations when capital was called. This course of dealing under the LPA worked so well that, in 2020 and 2021, the Family Office LP endorsed the Fund's direction and ATP's leadership by committing an additional $1.5 billion to support additional funding for portfolio companies and, after an extensive review and vetting process, approved budgets for those companies."[36]

46. For the Portfolio Companies, example Investment/Project Approval letters (*i.e.*, budget approvals) include:

- Aethon: November 22, 2022 executed proposed budget of $25 million (with intended use of proceeds being general working capital requirements);[37]
- Apertor: October 15, 2020 executed proposed budget of $50 million (with intended use of proceeds being research and development and creation of Synthetic Biology Platform);[38]
- Ascidian: September 6, 2023 executed proposed budget increase from $60 million to $64.3 million (with intended use of proceeds being working capital);[39]
- Deep Apple: November 10, 2021 executed proposed budget of $52 million (with intended use of proceeds being general working capital requirements);[40]

[36] Verified Complaint, May 30, 2025, paragraph 2.

[37] ATP Life Science Ventures, L.P., Investment/Project Approvals, November 22, 2022, ATP_00013943.

[38] Apple Tree Partners IV, L.P., Investment/Project Approvals, October 15, 2020, ATP_00033454.

[39] ATP Life Science Ventures, L.P., Investment/Project Approvals, September 6, 2023, ATP_00250539.

[40] ATP Life Science Ventures, L.P., Investment/Project Approvals, November 10, 2021, ATP_00031234.

- Evercrisp: July 22, 2021 executed proposed budget of $75 million (with intended use of proceeds being general working capital requirements);[41]

- Marengo: November 12, 2021 executed proposed budget increase from $85.3 million to $135.3 million (with intended use of proceeds being to advance lead clinical candidate);[42]

- Marlinspike: December 13, 2021 executed proposed budget of $65 million (with intended use of proceeds being general working capital requirements);[43]

- Nereid: May 29, 2020 executed proposed budget of $50 million (with intended use of proceeds being research and development);[44]

- Nine Square: May 29, 2020 executed proposed budget of $50 million (with intended use of proceeds being research and development);[45]

- Red Queen: December September 28, 2021 executed proposed budget of $55 million (with intended use of proceeds being general working capital requirements);[46] and

- Replicate: February 11, 2025 executed proposed budget increase from $54.25 million to $72.25 million (with intended use of proceeds being the EBV program and working capital for core initiatives).[47]

47. Dr. Harrison testified that the investment memoranda were a description of a reasonable picture of the expected project at that time, and that the budget

[41] ATP Life Science Ventures, L.P., Investment/Project Approvals, July 22, 2021, ATP_00114159.
[42] ATP Life Science Ventures, L.P., Investment/Project Approvals, November 12, 2021, ATP_00096455.
[43] ATP Life Science Ventures, L.P., Investment/Project Approvals, December 13, 2021, ATP_00342674.
[44] Apple Tree Partners IV, L.P., Investment/Project Approvals, May 29, 2020, ATP_00341909.
[45] Apple Tree Partners IV, L.P., Investment/Project Approvals, May 29, 2020, ATP_00341909.
[46] ATP Life Science Ventures, L.P., Investment/Project Approvals, September 28, 2021, ATP_00294038.
[47] ATP Life Science Ventures, L.P., Investment/Project Approvals, February 11, 2025, ATP_00334715.

approvals themselves do not contain milestones because companies sometimes pivot, which is normal.[48]

B Valuation of ATP Holdings in the Portfolio Companies

48. ATP's total investment in the Portfolio Companies (as of Q1-2025) is $577.8 million, with an ATP average investment per company of $44.5 million.[49] The cumulative fair value of these ATP investments in the Portfolio Companies, as of Q1-2025, is listed as $756.8 million.[50] With the exception of Marengo, which is categorized as Active/Series B, all companies are categorized at Active/Series A. For a sub-set comprised of eleven of the thirteen Portfolio Companies, the ATP cumulative investment and fair value as of the end of 2024 were similar ($485.7 million and $469.7 million, respectively), and for the remaining two companies (Ascidian and Marengo — with Phase 2 assets), the ATP fair values were substantially higher than the ATP investments (on a cumulative basis, $340.5 million and $145.6 million, respectively).[51] Such a value 'jump' after completion of a milestone (*e.g.*, completing a Phase 1 trial) is expected as such a success substantially increases the probability of achieving FDA approval. Although Aulos and Replicate are listed as having assets in Phase 1 or 2, there is no corresponding fair value jump above the invested value amounts.[52]

49. For each of the Portfolio Companies, I was provided a "Valuation Analysis of Holdings in [Specific Portfolio Company] — ASC 820," prepared for ATP Life Science Ventures, L.P., dated December 31, 2023 and 2024, provided by DiFilippo Corporate Finance Group, LLC.[53] This work was "to provide a valuation of certain

[48] Deposition of Dr. Seth Harrison, Volume 2, August 12, 2025, pages 330-331.
[49] *See* Tab 3 and Tab 4. Amounts rounded.
[50] *See* Tab 3 and Tab 4. Amount rounded.
[51] *See* Tab 3.
[52] *See* Tab 3.
[53] ASC 820, also known as Fair Value Measurement, is a standard within U.S. GAAP that provides a framework for measuring and disclosing fair value. Specifically, "ASC 820 is an accounting standard that provides a framework for defining, measuring, and reporting the fair value of investments. By standardizing how fair value is measured and disclosed, ASC 820 ensures financial statements provide stakeholders, investors, regulators, and decision-makers with reliable details about a company's

holdings in [Specific Portfolio Company] on a controlling, non-marketable ownership interest basis."

50. As shown in Tab 5, for twelve of the Portfolio Companies, the appraised fair values are essentially the invested capital with two adjustments — which provides a so-called market adjusted equity transaction method, which is often used to estimate the value of an equity investment in a private company without operating results.[54] I do not find the absence of DCF or market comparable-type valuations surprising, as these methodologies are not commonly done for pre-clinical drug candidates in the normal course of business by companies.[55] The first adjustment made by the appraiser is the Market Adjustment, which is based on the performance of biotech indexes between the previous and current valuation dates (in the Q4-2024 valuations, the appraiser varied this from –15% to 0%). The second adjustment made by the appraiser is the Company-Specific/Milestone Adjustment, which is based on the performance of the company between the previous and current valuation dates (in the Q4-2024 valuations, the appraiser varied this from –35% to 60%).

assets, financial liabilities, and equity. ASC 820 is part of the Financial Accounting Standards Board's (FASB) Generally Accepted Accounting Principles (GAAP) guidance, and is used broadly where fair value is required or permitted. ASC 820 defines fair value as the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date, known as the exit price" (Ex. 01: "ASC 820," April 2, 2025, <www.carta.com/learn/private-funds/management/asc-820/>).

[54]The market-adjusted equity transaction method starts with a recent financing round and adjusts for market conditions, rights/preferences, and other relevant factors.

[55]Based on the inputs and types of information required to perform a DCF analysis as described previously, my opinion is that reasonably developing meaningful revenue and cash flow forecasts for most of the Portfolio Companies drug candidates would be very challenging because of their very early stages, wherein the drugs' target profiles (*e.g.*, the anticipated efficacy, dosage, safety, and formulation) are unknown or uncertain. For example, absent a Target Product Profile — what the drug is envisioned to be — creating a reliable and meaningful sales forecast is challenging because of the uncertainty surrounding the numerous forecast inputs, including: addressable market (considering disease prevalence, incidence, and demographics), penetration rate (considering the therapeutic need, relative efficacy, relative safety, launch order-to-market, and physician prescribing behavior), dosing (considering initiation, annual number, compliance, and drop-off rates), pricing (considering manufacturing costs, gross-to-net discounts, prices of alternatives, relative efficacy and safety, anticipated payer coverage, reimbursement rates, and price increases or declines over time), launch date (considering the years to transition though all the development stages, and manufacturing), market share capture (considering physician prescribing behavior and competitive factors), and the probability of successfully transitioning through each development stage.

51. Also as shown in Tab 5, for Marengo, which is categorized as Series B, the appraiser's Company-Specific/Milestone Adjustment was 100%, and value in addition to the invested capital was considered by the appraiser. This included $87.9 million (the value of the Ipsen license and collaboration agreements, and options, as well as a deduction for convertible note liability).[56]

52. I understand that subsequent to the December 2024 valuations, Deep Apple and Novo Nordisk entered into a collaboration agreement. An article summarized the deal as:[57]

> Apple Tree Partners founded the biotech — and committed $52 million in series A funding — to discover small-molecule drug candidates by screening artificial-intelligence-generated virtual libraries. Deep Apple has used the cash and technology to establish a pipeline that includes three obesity programs. The biotech has yet to name its targets but has revealed two of the programs are focused on receptors other than GLP-1.
>
> Novo has agreed to pay up to $812 million, including an upfront payment, research costs and milestones, for a global license to small molecules aimed at a GPCR [G protein-coupled receptors] target that isn't an incretin. GLP-1 and GIP, the targets of today's leading obesity drugs, are incretins. The target has uses in cardiometabolic diseases including obesity.

53. A summary of the agreement is:[58]

- [redacted]

[56] Valuation Analysis of Holdings in Marengo Therapeutics, Inc. — ASC 820, prepared for: ATP Life Science Ventures, L.P., valuation date: December 31, 2024, DiFilippo Corporate Finance Group, LLC, ATP_00002605–ATP_00002684, at ATP_00002644.

[57] Ex. 02: "Novo Nordisk finds Deep Apple ripe for obesity R&D, inking $812M deal to go beyond incretins," June 11, 2025, <www.fiercebiotech.com/biotech>.

[58] Collaboration and License Agreement between Novo Nordisk A/S and Deep Apple Therapeutics, Inc., June 6, 2025, ATP_00406384–ATP_00406532, pages 1 and 45-50.

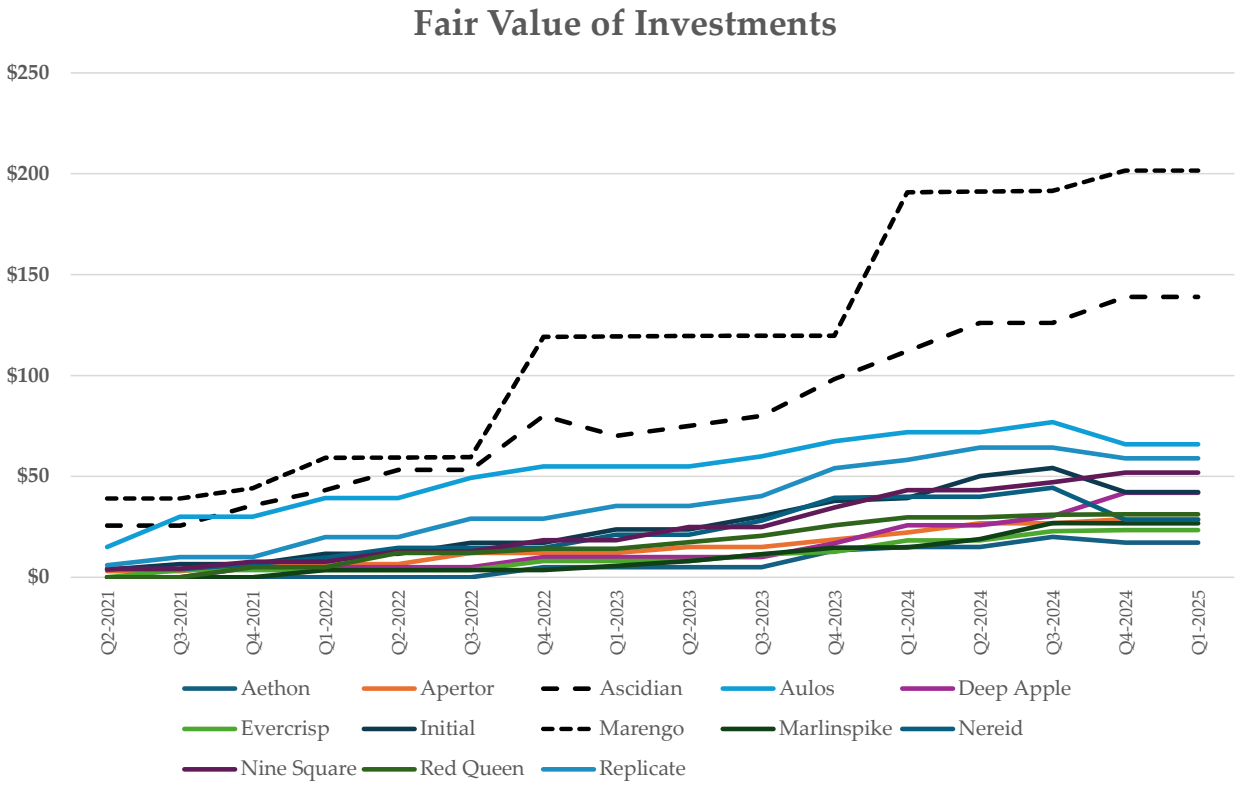
[redacted]

As the agreement happened subsequent to the latest valuation, I would expect a substantial increase in the next Deep Apple valuation due to inclusion of the expected deal value (or at least part of the deal value, such as the upfront payment) and an increase in the Company-Specific/Milestone Adjustment factor.

54. In summary, twelve of the thirteen Portfolio Companies are essentially valued at the level of invested capital, with market and company-specific adjustments. For some of Portfolio Companies that have achieved clinical milestones, the fair values

were approximately 1.5–3.6 higher than the invested capital. This is logical given, for example, that historical data indicate that successfully completing Phase 1 and transitioning to Phase 2 increases the probability of receiving FDA approval.

55. The evolution of the fair value of ATP's holdings in the Portfolio Companies indicates a general upward trend for most of the Portfolio Companies as additional capital was invested, and higher growth for Ascidian and Marengo:[59]



56. Each quarter, ATP produces a quarterly report that summarizes the performance of the fund and each of its portfolio companies. I compared the write-ups for each of the Portfolio Companies in ATP's quarterly reports for Q4-2024 and Q1-2025, and did not identify company-specific issues that would appear to materially and negatively change the valuations of ATP's holdings in the Portfolio Companies between December 31, 2024 and the end of Q1-2025.[60]

[59] Data from Tab 4.

[60] ATP Life Science Ventures, LP, Fourth Quarter 2024 Report, as of December 31, 2024, ATP_00004868–ATP_00004887; and ATP Life Science Ventures, LP, First Quarter 2025 Report, as of March 31, 2025, ATP_00004687–ATP_00004706. I note that the Q1-2025 write-up for Initial

57. A company, drug, or drug candidate valuation is influenced by the complex interplay of both internal and external factors. Internal factors influencing biotech company valuations include: the pipeline of drug candidates, stages of development, scientific and clinical data, size of potential market, anticipated efficacy to address an unmet medical need, competition (both existing and potential), intellectual property, management and scientific teams, and probability of regulatory approval. In valuing ATP's holdings in the Portfolio Companies, the appraiser made company-specific adjustments, which ranged from –35% to 100%. The stated rationales for these adjustments in the December 31, 2024 individual company valuations were:

- Aethon: 0% adjustment — "based on the performance of the Company between December 2022 and December 31, 2024;"[61]

- Apertor: 15% adjustment — "based on the performance of the Company between November 2020 and December 31, 2024. Notably, the Company is working towards nominating a development candidate and has performed in vivo studies. The adjustment is based on biotech in vivo announcement price change between 2022–2024;"[62]

- Ascidian: 60% adjustment — "based on the performance of the Company between August 18, 2020 and December 31, 2024. The Company announced that it was granted Rare Pediatric Disease Designation for its lead program, ACDN-01. . . which follows Fast Track Designation and IND clearance announced in early 2024. ACDN-01 is the first ever RNA exon editor to enter clinical de-

Therapeutics contains language about "organizational changes to strengthen its team and reduce burn," stating that "[p]ersonnel restructuring has also resulting in $1M savings over a 1-year period." I also note that the write-up for Deep Apple mentions that the company will be waiting on an influx of funds later in the year to do any "major medicinal chemistry" in the "triple G." It also notes that "Deep Apple is no longer forecasting a DC for 2025."

[61] Valuation Analysis of Holdings in Aethon Therapeutics, Inc. — ASC 820, prepared for: ATP Life Science Ventures, L.P., valuation date: December 31, 2024, DiFilippo Corporate Finance Group, LLC, ATP_00002037–ATP_00002111, at ATP_00002075.

[62] Valuation Analysis of Holdings in Apertor Pharmaceuticals, Inc. — ASC 820, prepared for: ATP Life Science Ventures, L.P., valuation date: December 31, 2024, DiFilippo Corporate Finance Group, LLC, ATP_00002112–ATP_00002186, at ATP_00002150.

velopment and the first RNA editing therapeutic to be cleared for clinical investigation in the United States prior to any other geography. In 4Q24, the Company activated 10 sites and dosed the first two patients in the STELLAR trial for ACDN-01. The low-dose cohort of the trial should be completed in 1Q25, and the mid-dose cohort is slated to begin in 2Q25. In addition, the Company entered into a research collaboration and licensing agreement with Roche for the discovery and development of RNA exon editing therapeutics targeting neurological diseases. The Company will receive an initial payment of $42.0 million and is eligible to receive up to $1.8 billion in research, clinical, and commercial milestone payments, as well as royalties on commercial sales worldwide;"[63]

- Aulos: 20% adjustment — "based on the performance of the Company between October 30, 2020 and December 31, 2024. The Company advanced its AU-007 program to Phase 2 portion of Phase 1/2 study evaluating computationally designed IL-2 antibody for treatment of solid tumors. As of 4Q 2024, the Company has treated 34 patients in Phase 2 does expansion cohorts in its clinical trial of AU-007;"[64]

- Deep Apple: 35% adjustment — "based on the performance of the Company between December 6, 2021 and December 31, 2024. Specifically, the company is expected to deliver an IND candidate by end of year and has several term sheets for collaboration agreements;"[65]

- Evercrisp: 25% adjustment — "based on the performance of the Company be-

[63]Valuation Analysis of Holdings in Ascidian Therapeutics, Inc. — ASC 820, prepared for: ATP Life Science Ventures, L.P., valuation date: December 31, 2024, DiFilippo Corporate Finance Group, LLC, ATP_00002187–ATP_00002274, at ATP_00002232.

[64]Valuation Analysis of Holdings in Aulos Bioscience, Inc. — ASC 820, prepared for: ATP Life Science Ventures, L.P., valuation date: December 31, 2024, DiFilippo Corporate Finance Group, LLC, ATP_00002296–ATP_00002379, at ATP_00002343.

[65]Valuation Analysis of Holdings in Deep Apple Therapeutics, Inc. — ASC 820, prepared for: ATP Life Science Ventures, L.P., valuation date: December 31, 2024, DiFilippo Corporate Finance Group, LLC, ATP_00002380–ATP_00002454, at ATP_00002418.

tween August 11, 2021 and December 31, 2024. Specifically, Management noted that the company is performing on par and the scientific progress has been meeting or exceeding expectations;"[66]

- Initial: 0% adjustment — "based on the performance of the Company between July 2020 and December 31, 2024. The company made significant progress towards an IND candidate in 2024, however the data was not satisfactory and they had to stop work. The company selected and is working with a second candidate that they expect to have nominated in IND by end of 2025;"[67]

- Marengo: 100% adjustment — "based on the performance of the Company between June 1, 2020 and December 31, 2024. The Company's global Phase 1/2 clinical trial in patients with advanced solid tumors of its lead molecule STAR0602, an anti-Vβ6 x rhIL-2 bifunctional T cell activator molecule, continued with RP2D established at 0.08mg/kg. The Phase 2 cPoC remains on track for delivering clinical POC in 2H25 and European centers in place to accelerate recruitment;"[68]

- Marlinspike: 0% adjustment — "based on the performance of the Company between February 2, 2022 and December 31, 2024;"[69]

- Nereid: –35% adjustment — "based on the performance of the Company between October 2020 and December 31, 2024. Based on discussions with Management, the company has not made significant scientific progress and there is

[66]Valuation Analysis of Holdings in Evercrisp Biosciences, Inc. — ASC 820, prepared for: ATP Life Science Ventures, L.P., valuation date: December 31, 2024, DiFilippo Corporate Finance Group, LLC, ATP_00002455–ATP_00002529, at ATP_00002493.

[67]Valuation Analysis of Holdings in Initial Therapeutics, Inc. — ASC 820, prepared for: ATP Life Science Ventures, L.P., valuation date: December 31, 2024, DiFilippo Corporate Finance Group, LLC, ATP_00002530–ATP_00002604, at ATP_00002568.

[68]Valuation Analysis of Holdings in Marengo Therapeutics, Inc. — ASC 820, prepared for: ATP Life Science Ventures, L.P., valuation date: December 31, 2024, DiFilippo Corporate Finance Group, LLC, ATP_00002605–ATP_00002684, at ATP_00002644.

[69]Valuation Analysis of Holdings in Marlinspike Therapeutics, Inc. — ASC 820, prepared for: ATP Life Science Ventures, L.P., valuation date: December 31, 2024, DiFilippo Corporate Finance Group, LLC, ATP_00002685–ATP_00002768, at ATP_00002730.

not additional investment coming in as of the valuation date. The company is looking for opportunities but has no leads at this time;"[70]

- Nine Square: 30% adjustment — "based on the performance of the Company between June 2020 and December 31, 2024. Notably, the Company has selected a development candidate and in the Parkin program, the project has advanced through lead series optimization;"[71]

- Red Queen: 30% adjustment — "based on the performance of the Company between October 13, 2021 and December 31, 2024. The Company has made substantial progress related to key programs. For the lead program, RQ-01 in SARS-CoV-2, the Company commenced planning discussions with the FDA for its proposed Phase 2 trial studying RQ-01 in immunocompromised individuals. In influenza, the Company has identified a development candidate lead ahead of schedule and is preparing to start pre clinical studies in early 2025. Further, the Company and Dana-Farber Cancer Institute (DFCI) expanded their licensing agreement to encompass recent RSV therapeutic developments made at DFCI as well as advanced formulations;"[72] and

- Replicate: 30% adjustment — "based on the performance of the Company between February 4, 2021 and December 31, 2024. The Company's primary program, RBI-4000, has entered the clinical stage, with Phase 2 trials expected to commence in 1Q2025. In addition, the Company has successfully completed its pre-IND interaction with the FDA on its prophylactic EBV vaccine, RBI-5000,

[70] Valuation Analysis of Holdings in Nereid Therapeutics, Inc. — ASC 820, prepared for: ATP Life Science Ventures, L.P., valuation date: December 31, 2024, DiFilippo Corporate Finance Group, LLC, ATP_00002769–ATP_00002843, at ATP_00002807.

[71] Valuation Analysis of Holdings in Nine Square Therapeutics Corporation — ASC 820, prepared for: ATP Life Science Ventures, L.P., valuation date: December 31, 2024, DiFilippo Corporate Finance Group, LLC, ATP_00002844–ATP_00002918, at ATP_00002882.

[72] Valuation Analysis of Holdings in Red Queen Therapeutics, Inc. — ASC 820, prepared for: ATP Life Science Ventures, L.P., valuation date: December 31, 2024, DiFilippo Corporate Finance Group, LLC, ATP_00002919–ATP_00003000, at ATP_00002964.

and is on track for clinical entry in 2025."[73]

58. Beyond a company's control are market dynamics and conditions that can significantly impact its value. These include investor sentiment, funding trends, interest rates, and overall market conditions. In the Portfolio Companies valuations, the appraiser made market adjustments, which ranged from –15% to 0%.[74] As an example, the following is an excerpt from the Replicate valuation report from which the –15% market adjustment was selected.

[73] Valuation Analysis of Holdings in Replicate Bioscience, Inc. — ASC 820, prepared for: ATP Life Science Ventures, L.P., valuation date: December 31, 2024, DiFilippo Corporate Finance Group, LLC, ATP_00003001–ATP_00003082, at ATP_00003046.

[74] *See* Tab 5; and sources cited above for the company-specific adjustments. Based on the performance of the biotech indexes from the (date provided below) to December 31, 2024:

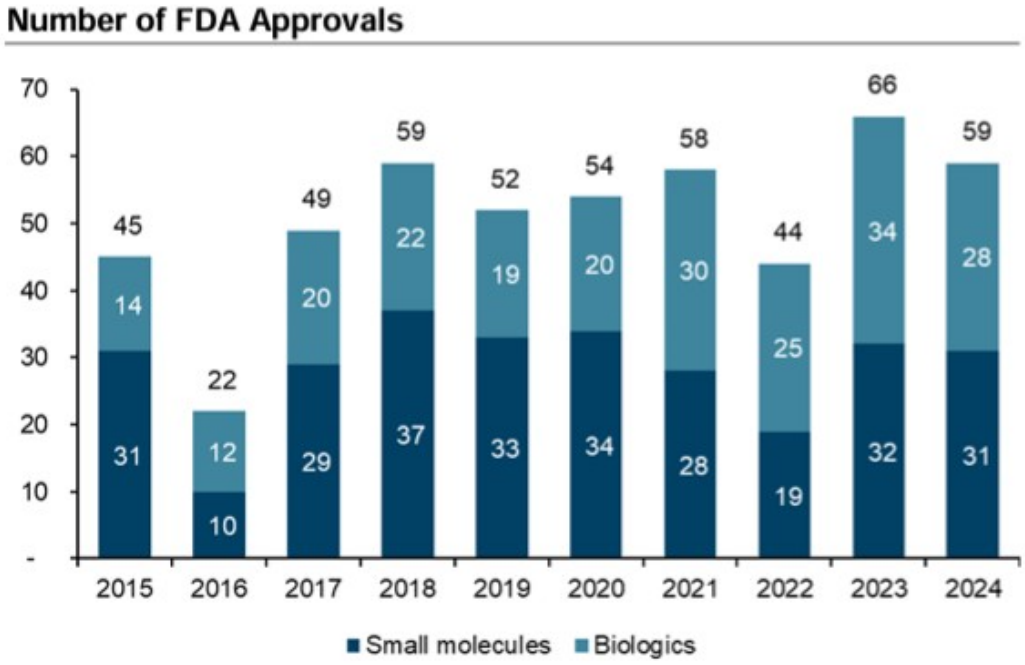
- Aethon: 0% adjustment (from December 16, 2022);
- Apertor: 0% adjustment (from November 5, 2020);
- Ascidian: 0% adjustment (from August 18, 2020);
- Aulos: 0% adjustment (from October 30, 2020);
- Deep Apple: 0% adjustment (from December 6, 2021);
- Evercrisp: –15% adjustment (from August 11, 2021);
- Initial: –10% adjustment (from July 2, 2020);
- Marengo: 0% adjustment (from June 1, 2020);
- Marlinspike: 0% adjustment (from February 2, 2022);
- Nereid: 0% adjustment (from October 13, 2020);
- Nine Square: –10% adjustment (from November 5, 2020);
- Red Queen: –10% adjustment (from October 13, 2021); and
- Replicate: –15% adjustment (from February 4, 2021).

Industry Specific Indices - Biotechnology Industry				
	Ticker	Index Value		% Change in
Index Name	(Cap IQ ID)	2/4/2021	12/31/2024	Index Value
S&P 500 - Biotechnology (Industry)	IQ2671593	$ 4,498,234	$ 5,383,087	19.7%
NASDAQ Biotechnology Index	^NBI	$ 5,227,599	$ 4,310,626	-17.5%
NYSE Arca Biotechnology Index	^BTK	$ 6,153,326	$ 5,745,672	-6.6%
RUSSELL 3000 Biotechnology Subsector	IQ689272599	$ 5,877,603	$ 3,326,579	-43.4%
S&P Composite 1500 - Biotechnology (Sub Ind)	IQ46155198	$ 3,554,362	$ 4,122,723	16.0%
EURO STOXX TMI Pharmaceuticals & Biotechnology EUR Index	IQ54755248	$ 591,980	$ 588,440	-0.6%
Dynamic Biotechnology & Genome Intellidex Index	^DZO	$ 8,841,539	$ 7,572,727	-14.4%
S&P Americas SmallCap Pharmaceuticals, Biotechnology & Life Sciences (Industry Group) Index	IQ84308388	$ 943,275	$ 572,829	-39.3%
S&P Biotechnology Select Industry Index	IQ46155192	$ 12,639,644	$ 7,023,044	-44.4%
FTSE USA Pharmaceuticals And Biotechnology Index	IQ256611030	$ 2,024,247	$ 2,552,396	26.1%
MSCI AC Americas Small/Pharm Bio&Life Sci (Industry Group) Index	IQ379940997	$ 10,249,998	$ 5,968,656	-41.8%
MSCI ACWI Ex USA Small/Pharm Bio&Life Sci (Industry Group) Index	IQ379948918	$ 2,401,385	$ 1,596,927	-33.5%
SPDR Biotech Fund Index	^XBI	$ 162,807	$ 90,115	-44.6%
	LOW			-44.6%
	25th PERCENTILE			-41.8%
	MEAN			-17.3%
	MEDIAN			-17.5%
	75th PERCENTILE			-0.6%
	HIGH			26.1%

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59. As presented in a table earlier in this report, of the thirteen Portfolio Companies, six are listed as pursuing drug candidates with a small molecule modality (in the therapeutic areas of autoimmune disease, dermatology, metabolic disorder, neurology, and oncology), six are listed with a biologic/gene therapy modality (in the therapeutic areas of autoimmune disease, neurology, oncology, ophthalmology, and virology), and one is listed as pursuing a genome editor. As indicated in the following figure, across 2015–2024 (with the exceptions of 2016 and 2022), the number of small molecules approved by the FDA has been relatively consistent at approximately 30 per year; and there has been a general upward trend for the number of biologics approved by the FDA.[75]

[75]Ex. 15: "Pharmaceutical Outsourcing & Services," Equity Research, William Blair, February 26, 2025, page 9.



60. The oncology therapeutic area is a main focus of the Portfolio Companies. A Memorial Sloan Kettering Cancer Center website, which tracks FDA approved oncology therapies, indicates that from 2015–2024, the annual number of approved therapies averaged approximately 14 (with a low of 4 in 2016 and a high of 21 in 2020), with a general upward trend.[76]

61. The neurology therapeutic area is another main focus of the Portfolio Companies. An article in Neurology Journal states, "[i]n recent years, the field of neurology has seen significant progress, with the U.S. Food and Drug Administration (FDA) approving new medications for various neurological conditions. . . We found 32 novel neurological indications. . . approved between 2018–2023. The following list demonstrates the condition and quantity of medications that we examined: Migraines (9), Multiple Sclerosis (4), Alzheimer's Disease (3), Parkinsonian Syndromes (3), Amyotrophic Lateral Sclerosis (2), Seizures / Epilepsy (3), Neuromyelitis Optica Spectrum Disorder (2), Lambert-Eaton Myasthenic Syndrome (1), Neurofibromatosis I (1), Spinal Muscular Atrophy (1), Hereditary Transthyretin-mediated Amyloidosis

[76] Ex. 05: <www.oncokb.org/oncology-therapies>, filtered to FDA-Approved Oncology Therapies (242 therapies) and then counted by year.

(1), Friedrich's ataxia (1), Rett Syndrome (1).[77]

62. FDA approval data for small molecule, biologic, oncology, and neurology drugs do not evidence a systemic negative change in the number of approvals for these types of drugs and, thus, would not appear to provide a rationale for ceasing the Portfolio Companies' drug development efforts.

C Investing in Early-Stage Life Science Companies

i High Risk–High Reward

63. As illustrated by the previous discussions, investing in early-stage life science companies is characterized by high risk and the potential for high reward. The risks are numerous, including: drug candidate high failure rate (as discussed in the section Drug Development: Probabilities of Success), long development timelines (as discussed in the section Drug Development: Timing), significant capital requirements (as discussed in the section Drug Development: Cost), and management/operational risks. Investments across multiple companies, different therapeutic areas, and/or different stages of development are strategies to reduce/diversify such risk. However, driving these high-risk investments are the substantial returns (even across a portfolio including failed drug candidates) and revenues/profits that can be realized from a successful drug or other medical breakthrough, or through an exit strategy such as being acquired by an established pharmaceutical company or an initial public offering.

ii Long Time Horizon & Escalating Costs

64. As illustrated by the previous discussion, bringing a drug candidate through FDA approval is a years' long endeavor (as discussed in the section Drug Development: Timing) at significant and escalating costs. Venture capitalists generally provide a series of funding rounds (*e.g.*, pre-seed, seed, Series A, Series B, and Series

[77]Ex. 08: "A Comprehensive Review of Novel FDA-approved Neurological Indications from 2018–2023," Neurology Journal, April 9, 2024.

C), where each stage represents a different level of company maturity and capital needs. The Portfolio Companies, with one exception, are all categorized at Series A.[78] Therefore, a venture capitalist would be well aware that additional rounds of funding, post-Series A, would be necessary for the Portfolio Companies to continue development of their drug candidates, especially considering the expense of clinical trials. Further, as shown in Tab 6, illustrative typical end-points presented in the Investment Memorandum for each of the Portfolio Companies' Series A investments include IND filings (*i.e.*, an Investigative New Drug application, which is a regulatory submission to the FDA that allows clinical trials in humans to begin) and the start or completion of Phase 1 trials. Therefore, from the outset, it would be clear that additional funding would be required by each of the Portfolio Companies to continue development of the drug candidates.

iii Follow-On Investing

65. There are economic motivations for venture capitalists to reinvest in their existing portfolio companies — barring circumstances such as a scientific 'road block' or the failure of a drug candidate during development — rather than seeking out entirely new investment opportunities. These motivations would include to (1) maintain ownership percentage and influence in a company, (2) signal confidence in the company to potential investors/acquirers, which increases the company's value and credibility, (3) leverage the venture capitalist's existing insights into the company's R&D, management, market, etc. compared to investing in a new company, (4) avoid the due diligence costs and time associated with investing in a new company, (5) signal commitment to the company, which can boost morale among the portfolio companies and encourage a more collaborative relationship between the investors and founders, and (6) maximize returns through continued funding of promising companies — in other words, 'doubling down' on those companies viewed as most likely to be success-

[78] *See* Tab 3.

ful.

66. Research on the behavior of venture capital (and, more broadly, private equity) firms demonstrates that these firms will continue to invest in their portfolio companies, even when macroeconomic conditions disincentivize investment in new companies. For example, an article discussing the behavior of private equity firms during the 2008 financial crisis indicates that these firms were "significantly more likely to assist portfolio companies with their operating problems during the crisis. . . In contrast, PE investors were less likely to search for new deals," and further, that these firms were more likely to "assist portfolio companies in raising additional debt financing and to inject equity to alleviate financing constraints."[79] Another article, about the biotech venture capital industry's recovery from the COVID-19 pandemic, quotes Andy Seid (a partner at Bioluminescence Ventures) — "[a] lot of folks have capital tied up in existing portfolios, and allocation of dry capital is really toward follow-ons as opposed to new investments."[80] This sentiment is shared in another article, which states that "VCs need to reserve more capital to support their existing portfolio companies" in lieu of making new investments.[81]

iv Funding Risks

67. A significant challenge facing early-stage life science companies is the risk or perceived risk of not having the necessary capital to continue to fund and operate the business. This can happen for a variety of reasons, including the failure to secure additional funding, and additional costs due to unsuccessful clinical trials or unexpected regulatory hurdles. A lack of longer-term funding can have a number of negative consequences, including:

[79]Ex. 17: Shai Bernstein, Josh Lerner, and Filippo Mezzanotti, "Private Equity and Financial Fragility during the Crisis," *The Review of Financial Studies*, Volume 32, Issue 4, April 2019, page 1315.

[80]Ex. 12: Gwendolyn Wu, "As biotech recovers, venture firms' preferences appear to shift," BioPharma Dive, June 6, 2024.

[81]Ex. 03: "The biotech VC crunch," April 11, 2023, <www.baybridgebio.com/blog/biotech-vc-crunch>.

- Talent loss, as management and researchers seek better-funded opportunities;
- Delayed, abandoned, or disrupted R&D, which can lead to falling behind competitors or the loss of potential therapies, even those with early signs of efficacy;
- Difficulty in restarting halted or delayed pre-clinical or clinical trials;
- Difficulty in attracting future investments or partners; and
- Negative perception of the company.

68. In summary, an absence of reliable funding for early-stage life science companies carries considerable risk and can have long-term negative consequences.

D Lack of Support/Substantiation to Cease Funding the 'Early-Stage' Portfolio Companies

69. In a May 15, 2025 email, Mr. Yuri Bogdanov (Chief Investment Officer and co-CEO at Rigmora, and the senior-most person at Rigmora overseeing its investments in ATP) wrote to Dr. Harrison, "[t]his email puts you on notice that the SLP [*i.e.*, Rigmora] are of the strong opinion that it is in the best interests of ATP Fund NOT to allocate any further funding for the following portfolio companies of the ATP Fund ('Early-Stage Companies')" — Deep Apple Therapeutics, Red Queen Therapeutics, Aethon Therapeutics, Apertor Pharmaceuticals, Evercrisp Biosciences, Marlinspike Therapeutics, and Initial Therapeutics — because the "SLP see no way for a path to commercial success for these Early-Stage Companies, *inter alia*, because: they have failed to meet the milestones set out in the investment memoranda on which SLP's initial funding was premised, the remaining budgets are not sufficient to achieve them, there is no third party interest to invest in these Early-Stage Companies. . . " and, further, the "SLP's position is therefore that further funding of those Early-Stage Companies will waste the ATP Fund's assets."[82]

[82]Email String, Yuri Bogdanov and Seth Harrison, May 15-22, 2025, ATP_00265610–ATP_00265613; and Deposition of Yuri Bogdanov, August 8, 2025, pages 27 and 39.

70. Although Defendants "see no way for a path to commercial success," they failed to assess (or have assessed) the technological/scientific progress and outlook of the Early-Stage Companies using technical and/or industry experts as would be necessary, but instead tried themselves "to assess the companies' milestones performance based on the [years-old] investment memorandum[s]."[83] Further, Mr. Bogdanov agreed that not all of the companies were behind on their milestones, but he did not know the percentage that were behind.[84]

71. Mr. Spiros Liras, a Venture Partner at ATP, testified that the investment memoranda milestones were created based on "standard analytics from [the] history of drug discovery, with the very important caveat that in drug discovery. . . forecasts have to actually be shifted in response to actual scientific data, which usually provides opportunities to pivot," and "the investment memo generally is a forecast. . . uninformed by actual experimental data."[85] Dr. Harrison testified that early-stage therapeutics need to be "managed intelligently" and that there will be "inevitable setbacks" that need to be dealt with, and pivots in the process.[86] He further stated that the milestones associated with the various tranches in the investment memoranda were "to create the best picture one could of a future from start-up, where it is impossible to predict the future" and that there was certainty that there would be changes based

Dr. Harrison's response to the May 15, 2025 email included, "[t]o put it mildly, we were surprised and disappointed by — and, as I have told you repeatedly, disagree with — your apparently brand-new view that the Early-Stage Companies should be defunded and/or that there is no path to success for this companies. Your views are inconsistent with our budget discussions over the last ten months (including, especially, those that led to the execution of Amendment 22 to the LPA and the parties' Settlement Agreement) and how the GP has managed early-stage assets (with SLP approval) for more than a decade, including with respect to the meeting of milestones by our ultimately-most-successful companies. Each of the Early-Stage Companies remain promising and deserving of budgeted funding and beyond. Particularly upsetting and unconstructive was the false contention made in your email that the GP agrees with the SLP that further investment in the Early-Stage Companies would be a waste of ATP's assets. That is not true, and you know it. The SLP and its counsel tried to make that claim during our teleconference last Monday, and I repeatedly and clearly rejected that assertion and stated that the Early-Stage Companies are worth funding" (Email String, Yuri Bogdanov and Seth Harrison, May 15-22, 2025, ATP_00265610–ATP_00265613).

[83]Deposition of Yuri Bogdanov, August 8, 2025, page 248.

[84]Deposition of Yuri Bogdanov, August 8, 2025, page 258.

[85]Deposition of Spiros Liras, August 12, 2025, pages 14, 38, and 44.

[86]Deposition of Dr. Seth Harrison, Volume 1, August 11, 2025, page 215.

on the ongoing experimental work.[87] In other words, "[i]t was the best picture that we could put together at a given point in time over what a reasonable scenario could be from a given starting point. . . under the management of a top team that had a tremendous amount of experience in bringing such projects forward."[88] He further testified that "[m]ilestones are missed all the time that you set up and then companies wind up incredibly successful because of other things you do in reaction. It's simply how it works and how value has been created historically in biotech and in these portfolios."[89] Additionally, "[w]e consider what to do at all times of — given the research projects that are going on and if there — if they are taking too long or are not where I think they should be at a given stage, I ask a lot of questions and we consider and reconsider directions and people brainstorm and come up with ideas, and it's generally from that process — and we throttle budgets — and from that process value emerges and has emerged historically, and that is the reason for the success of this portfolio, the entire portfolio. That's why we have the track record we do."[90] However, ATP has 'wound up' "companies where we deemed the projects to have failed or to have — to be no longer worth funding."[91]

72. Notwithstanding that not all of the Early-Stage Companies were behind on their originally identified milestones, Defendants' cursory-type assessment involving dated business plans (instead of contemporary and rigorous technological/scientific assessments, especially considering the dynamic nature of the drug development process) does not support or substantiate ending funding for each and every one of the Early-Stage Companies.[92] Further, Defendants do not appear to have assessed

[87] Deposition of Dr. Seth Harrison, Volume 1, August 11, 2025, pages 223-224.
[88] Deposition of Dr. Seth Harrison, Volume 1, August 11, 2025, page 227.
[89] Deposition of Dr. Seth Harrison, Volume 2, August 12, 2025, page 317.
[90] Deposition of Dr. Seth Harrison, Volume 2, August 12, 2025, page 320.
[91] Deposition of Dr. Seth Harrison, Volume 2, August 12, 2025, page 362.
[92] *See also*, Exhibit 23 from Dr. Harrison's deposition that provides ATP's "overall assessment" that Apertor, Deep Apple, and Nereid were at an "exceeds" level, and Evercrisp, Initial, and Nine Square were at an "on target" level. Further, Exhibits 23 and 24 indicate that Aethon "pivoted to developing a pan RAS targeting antibody and p53 covalent small molecule," Apertor "pivoted to proximity induced inhibitors," Deep Apple "[e]xpanded pipeline to breadth vs. depth," Evercrisp "[p]ivoted to mini-protein AI enabled design," and Initial "[f]ocused strategy entirely on oncology

whether the issues or problems that may have caused the 'missed' milestones had been overcome and a path forward had been determined.[93]

73. Regarding the claim that the budgets were not sufficient to achieve the milestones, many of the Early-Stage Companies had substantial remaining budgets to call. For example, Aethon ($8.0 million), Apertor ($19.4 million), Deep Apple ($9.0 million), Evercrisp ($49.0 million), Initial ($19.9 million), Marlinspike ($36.3 million), and Red Queen ($23.6 million).[94] Defendants do not appear to have done a company-by-company analysis as to the amount of money that would be required to achieve the milestones as compared to the remaining budgets; therefore, Defendants' assertion is not supported or substantiated.

74. Regarding the claim that there was no third-party interest to invest, Mr. Bogdanov testified that he was limiting such interest to "equity investments or something similar to that," not to partnerships, collaborations, or licenses, which are common between early-stage life science companies and larger pharmaceutical companies.[95] Mr. Liras of ATP testified that "we had [] business development activities across many companies."[96] He had provided reasonable assumptions ("based on the emerging state of the market and business development partner appetite") for business development deals: 1Q-2025 for Deep Apple, Q2-2025 for Apertor, and Q3-2025 for Initial, Nine Square, and Nereid.[97] As discussed previously in regards to Deep Apple — one of the Early-Stage Companies — just weeks after the May 15 "no way for a path to commercial success" email, Novo Nordisk and Deep Apple entered into a collaboration and license agreement wherein [redacted]

undruggable transcription factors."

[93]Deposition of Yuri Bogdanov, August 8, 2025, page 248.

[94]Verified Complaint, May 30, 2025, paragraph 9.

[95]Deposition of Yuri Bogdanov, August 8, 2025, page 260.

[96]Deposition of Spiros Liras, August 12, 2025, page 226.

[97]Deposition of Spiros Liras, August 12, 2025, pages 253-254.

[redacted][98] Further, Defendants do not appear to have done any independent assessment of such interest, but instead the May 12 email simply put the onus on ATP to subsequently "come up with a proposal to salvage value."[99] Defendants do not appear to have done any due diligence to understand whether there was outside interest and appetite in the Early-Stage Companies; therefore, Defendants' assertion is not supported or substantiated.

75. Mr. Bogdanov also testified that Rigmora does not have internal employees who have a scientific background in biotechnology research or development, which would belie Defendants' alleged due diligence leading them to conclude there was "no way for a path to commercial success" for the Early-Stage Companies.[100] Additionally, he wrote in an October 2022 memorandum about Rigmora's "liquidity crisis," which stated that "[t]he only way in this situation to start moving towards the cash buffer is to drastically reduce ATP payments."[101]

76. Dr. Mark Robbins provided the following "key development milestones" for what he categorized as the "Preclinical Companies" (excludes Ascidian, Aulos, Marengo, and Replicate):[102]

[98] Collaboration and License Agreement between Novo Nordisk A/S and Deep Apple Therapeutics, Inc., June 6, 2025, ATP_00406384–ATP_00406532.
[99] Deposition of Yuri Bogdanov, August 8, 2025, pages 260-263.
[100] Deposition of Yuri Bogdanov, August 8, 2025, page 46.
[101] Deposition of Yuri Bogdanov, August 8, 2025, pages 160-176.
[102] Expert Report of Mark Robbins, Ph.D., J.D., August 15, 2025, Figure 2.

Company	**Examples of Development Milestones**
Aethon	Candidate selection ongoing
Apertor	IND-enabling studies ongoing
Deep Apple	IND-enabling study ongoing
Evercrisp	In vivo testing ongoing
Initial	Late preclinical discovery ongoing
Marlinspike	Lead optimization ongoing
Nereid	Non-GLP tox. complete, GLP tox. studies exp. summer 2025
Nine Square	Preclinical development and candidate selection ongoing
Red Queen	Phase 2 clinical trials being planned

77. Based on the listed key milestones, one company is in the planning stages for a Phase 2 clinical study, two companies have ongoing IND-enabling studies, and the remaining five companies are in earlier stages (*e.g.*, lead optimization, candidate selection, *in vivo* testing, or discovery). As discussed previously, Deep Apple — whose key milestone is an ongoing IND-enabling study — entered into a collaboration and license agreement with Novo Nordisk.

78. In conclusion, Defendants' purported reasons to cease funding the Early-Stage Companies are not supported or substantiated.



Mohan Rao, Ph.D.

August 15, 2025

Tab 1

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Summary

Dr. Mohan Rao is the Chairman of Epsilon Economics and specializes in antitrust and intellectual property economics, with an emphasis on life sciences and technology. He has testified as an expert in U.S. and foreign courts and in arbitration proceedings.

Dr. Rao also serves as the Chief Executive Officer of Expression Therapeutics, a biotechnology firm based in Atlanta that is focused on developing advanced therapies for hematology and oncology. Dr. Rao previously taught at Northwestern University and UCLA and was a Teaching Fellow at Harvard University. He was appointed as the first "Executive in Residence" — a recognized leader in the technology community — by the McCormick College of Engineering at Northwestern University. Prior to Epsilon Economics, Dr. Rao was the head of Navigant Economics, a global economics consulting firm. He has a Bachelor of Science in Engineering from the University of Michigan, a pre-doctoral fellowship from Harvard University, and a Ph.D. from the University of Colorado.

Dr. Rao serves on the Board of Directors of Expression Therapeutics, Inc., Epsilon Xi LLC, the Children's Hospital of Chicago, the Stanley Manne Children's Research Institute, and the Economic Club of Chicago, on the Board of Trustees of the Chicago Symphony Orchestra, and is a member of the Chicago Club.

Academic and Professional Experience

- **Epsilon Economics**
  Chairman/Chief Executive Officer, 2015-present
- **Expression Therapeutics**
  Chief Executive Officer/Partner, 2007-present
- **Navigant Economics**
  Managing Director, 2010–2015
- **LECG**
  Managing Director, 2005–2010
- **Northwestern University**
  McCormick School of Engineering and Applied Science
  Adjunct Professor, 2006–2020
- **Charles River Associates / InteCap, Inc.**
  Vice President, CRA, 2004–2005
  Managing Director, InteCap, 2004–2005
  Director, InteCap, 2000–2003
- **University of California, Los Angeles**
  Assistant Professor, 1994–2001
- **Harvard University**
  Fellow, Government Data Center, 1993–1994
  Teaching Fellow, 1993–1994

Education

- B.S. (Engineering), 1989, **University of Michigan**
- Pre-Doctoral Fellow, 1993–1994, **Harvard University**
- Ph.D.; M.A. (Economics; Political Science), 1994, **University of Colorado**

Selected Fellowships and Awards

- Cooley Award, University of Michigan College of Engineering
- Government Data Center Fellowship, Harvard University

- David Cattell Fellowship, UCLA
- Faculty Career Development Award, UCLA

Selected Affiliations

- Member, American Economic Association
- Member, Licensing Executives Society
- Member, American Society of Gene & Cell Therapy
- Member, Institute of Electrical and Electronics Engineers (IEEE)

Expert Testimony

1. Warner Records Inc. et al. v **Altice USA, Inc., and CSC Holdings, LLC.**
   U.S. District Court – Eastern District of Texas (Marshall Division)
   Case No. 2:23-cv-576
2. **Nektar Therapeutics** v. Eli Lilly & Co.
   U.S. District Court – Northern District of California (San Francisco Division)
   Case No. 3:23-cv-03943-JD
3. **Inpria Corporation** v. Lam Research Corp.
   U.S. District Court – District of Delaware
   C.A. No. 1-22-cv-01359-CJB
4. **Azurity Pharmaceuticals, Inc.** v. Bionpharma, Inc.
   U.S. District Court – District of Delaware
   C.A. No. 21-1286
5. Fortinet Inc. v. **Forescout Technologies, Inc.**
   U.S. District Court – Northern District of California (San Francisco Division)
   Case No. 3:20-cv-03343-EMC
6. Alexion Pharmaceuticals, Inc. et al v. **Samsung Bioepis Co. Ltd.**
   U.S. District Court – District of Delaware
   C.A. No. 1:24-cv-00005-GBW
7. The Sanborn Library LLC et al. v. **ERIS Information Inc. et al.**
   U.S. District Court – Southern District of New York
   No. 1:19-cv-02049-LAK-OTW

8. **Arbor Pharmaceuticals, LLC and Takeda Pharmaceutical Company Limited** v. Saba Ilac Sanayii Ve Ticaret As et al.
   U.S. District Court — District of Delaware
   Civil Action No. 20-353-MN

9. **Puma Biotechnology, Inc. et al** v. AstraZeneca Pharmaceuticals LP et al
   U.S. District Court — District of Delaware
   C.A. No. 21-1338-MFK

10. Amgen, Inc. et al v. **Sandoz Inc.**
    U.S. District Court — District of New Jersey
    C.A. No. 1:23-CV-02406-CPO-EAP

11. **Curia Global, Inc. et al.** v. Cyprium Therapeutics, Inc.
    American Arbitration Association
    Case No. 01-22-0003-4042

12. **300 North LaSalle LLC** v. Hines Interests Limited Partnership
    Federal Arbitration, Inc.
    Case No. F22-JW-A-DFG-0603

13. In re: Certain Selective Thyroid Hormone Receptor-Beta Agonists. Processes for Manufacturing or Relating to Same, and Products Containing Same
    On behalf of: **Viking Therapeutics, Inc.**
    United States International Trade Commission
    Investigation No. 337-TA-1352

14. **Azurity Pharmaceuticals, Inc.** v. Amneal Pharmaceuticals, LLC
    U.S. District Court — District of New Jersey
    Civil Action No. 3:21-cv-08717-FLW-DEA

15. **PhaseBio Pharmaceuticals, Inc.** v SFJ Pharmaceuticals X, Ltd.
    U.S. Bankruptcy Court — District of Delaware
    Case No. 22-10995 (LSS), Adv. Proc. No. 22-50456 (LSS)

16. Endo International plc et al. v **Nevakar, Inc., et al.**
    U.S. Bankruptcy Court — Southern District of New York
    Case No. 22-22549 (JLG), Adv. Proc. No. 22-07034 (ALG)

17. **Merck Sharp & Dohme Corp.** v Zydus Worldwide DMCC et al.
    U.S. District Court — District of Delaware
    No. 1:21-cv-00315-RGA

18. Novartis Pharma AG v **Incyte Corporation**
    U.S. District Court — Southern District of New York

Civil Action No. 1:20-cv-00400-GHW

19. SmartSky Networks, LLC v. **Gogo Business Aviation, LLC et al.**
U.S. District Court — District of Delaware
C.A. No. 22-266 (VAC)

20. Celldex Therapeutics, Inc. v. **Shareholder Representative Services LLC**
Court of Chancery — State of Delaware
C.A. No. 2020-0682-MTZ

21. **Taiho Pharmaceutical Co., Ltd** v. Accord Healthcare Inc. et al
U.S. District Court — District of Delaware
Civil Action Nos. 1:19-cv-02321 (CFC), 1:19-cv-02309 (CFC)
Civil Action Nos. 1:19-cv-02342 (UNA), 1:19-cv-02368 (UNA)

22. **Actelion Pharmaceuticals Ltd.** v. Mylan Pharmaceuticals Inc.
U.S. District Court — Northern District of West Virginia
Civil Action No. 1:20-CV-110 (Keeley)

23. Syngenta Crop Protection AG v. FMC Corporation
FMC Corporation v. Syngenta Crop Protection AG
American Arbitration Association
AAA Case No. 01-19-0002-4208, 01-19-0002-4192
Neutral Expert to the Tribunal

24. Novartis Pharma AG v. **Mitsubishi Tanabe Pharma Corporation**
International Court of Arbitration
Case No. 24256/PTA

25. **Wemade Co., Ltd. et al** v. Lansha Information Technology Co., Ltd. et al.
International Court of Arbitration
Case No. 22820/PTA/HTG

26. **Horizon Medicines LLC et al.** v. Dr. Reddy Laboratories Inc. et al.
U.S. District Court — District of New Jersey
Case No. 2:15-cv-03324 (SRC) (CLW)

27. Ravgen, Inc. v. **Natera, Inc. and NSTX, Inc.**
U.S. District Court — Western Division of Texas (Austin Division)
Civil Action No. 6-20-CV-00451

28. Seattle Genetics, Inc. v. **Daiichi Sankyo Co., Ltd.**
American Arbitration Association
Case No.: 01-19-0004-0115

29. **Humana Health Plan, Inc. et al.** v. Walgreen Co. et al.
American Arbitration Association
AAA Case 01-19-0002-5131

30. **Merck Sharp & Dohme Corp.** et al. v. Actavis Laboratories FL et al.
U.S. District Court — District of New Jersey
C.A. No. 2:15-CV-06541

31. Club Champion LLC v. **True Spec Golf LLC**
U.S. Patent and Trademark Office — Patent Trial and Appeal Board
Inter Partes Review No. IPR2019-01148

32. **Actelion Pharmaceuticals Ltd.** v. Zydus Pharmaceuticals (USA) Inc.
U.S. District Court — District of New Jersey
C.A. 18-1397 (FLW)(LHG)

33. **Treehouse Foods, Inc. et al.** v. Keurig Green Mountain, Inc.
U.S. District Court — Southern District of New York
No. 1:14-CV-00905-VSB

34. **Ingevity Corporation et al.** v. BASF Corporation
U.S. District Court — District of Delaware
Case No. 18-1391-RGA

35. Niazi Licensing Corporation v. **St. Jude Medical S.C., Inc.**
U.S. District Court — District of Minnesota
C.A. No. 017-cv-5096-WMT-BRT

36. Glaukos Corporation v. **Ivantis, Inc.**
U.S. District Court – Central District of California
C.A. No. 8:18-cv-00620-JVS-JDE

37. C.R. Bard, Inc. v. **Medline Industries, Inc.**
U.S. Patent and Trademark Office — Patent Trial and Appeal Board
Inter Partes Review No. IPR2019-00035
Inter Partes Review No. IPR2019-00036
Inter Partes Review No. IPR2019-00109

38. **Sandoz Inc. et al.** v. United Therapeutics Corporation et al.
U.S. District Court — Northern District of New Jersey
Case No. 3:19-cv-10170-BRM-LHG

39. Maverick Therapeutics, Inc. et al. v. **Harpoon Therapeutics, Inc.**
Court of Chancery — State of Delaware
C.A. No. 2019-0002-SG

40. **Koppers (Jiangsu) Carbon Chemical Company Limited** v. Fangda C-Chem (Jiangsu) Needle Coke Co., Ltd.
China International Economic and Trade Arbitration Commission (CIETAC)
Case No. G20180547

41. **Rockwell Automation, Inc.** v. Radwell International, Inc.
U.S. District Court — District of New Jersey
Civil Action No.: 15-cv-05246 (RBK) (JS)

42. Delcor Asset Corporation et al. v. **Taro Pharmaceutical Industries et al.**
U.S. District Court — Southern District of New York
C.A. No.:1:17-cv-05405 (RJS)

43. Duke University and Allergan Sales, LLC v. **Sandoz, Inc.**
U.S. District Court — District of Colorado
Civil Action No.: 1:18-cv-00997-MSK-KLM

44. Juno Therapeutics, Inc. et al. v. **Kite Pharma, Inc.**
U.S. District Court — Central District of California
Case No.: 2:17-CV-07639

45. Välinge Innovation AB v. **Halstead International, The Home Depot, Inc.**
U.S. District Court — District of Delaware
C.A. No. 16-1082-LPS-CJB

46. In re: Merck Mumps Vaccine Antitrust Litigation
On behalf of: **Merck & Co., Inc.**
U.S. District Court — Eastern District of Pennsylvania
No. 2:12-cv-03555

47. Blue Cross Blue Shield Association, et al. v. **GlaxoSmithKline LLC.**
U.S. District Court — Eastern District of Pennsylvania
Civil Action No. 2:13-cv-4663-JS

48. In the Matter of Certain Programmable Logic Controllers (PLCs), Components Thereof, and Products, Containing Same
On behalf of: **Rockwell Automation, Inc.**
United States International Trade Commission
Inv. No. 337-TA-1105

49. **Chuanqi IP Co., Ltd.** v. Zhejiang Huanyou Network Technology Co., Ltd.
International Court of Arbitration
Case No. 22593/PTA

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50. Bio-Rad Laboratories, Inc. v. **Paladin III, L.P.**
Supreme Court of the State of New York — County of New York
Index No. 651641/2014

51. Tyntec Inc. et al. v. **Syniverse Technologies, LLC.**
U.S. District Court — Middle District of Florida (Tampa Division)
Case No. 8:17-CV-00591-RAL-MAP

52. **Gilead Sciences, Inc.** v. Roche Molecular Systems, Inc.
American Arbitration Association
AAA Case 01-16-0004-7625

53. Sanofi-Aventis US. LLC et al. v. **Merck Sharp & Dohme Corp.**
U.S. District Court — District of Delaware
C.A. No. 16-812-RGA

54. **Immunomedics, Inc.** v. Roger Williams Medical Center et al.
U.S. District Court — District of New Jersey
Civil Action No. 2:15-cv-04526

55. Purdue Pharma L.P. et al. v. **Amneal Pharmaceuticals, LLC**
U.S. District Court — District of Delaware
C.A. No. 15-1152-RGS-SRF

56. **KVK-Tech, Inc.** v. Valeant Pharmaceuticals International, Inc. et al.
American Arbitration Association
No. 01-15-0005-0393

57. Astrazeneca LP, et al. v. **Breath Limited, et al.**
U.S. District Court — District of New Jersey
08-cv-01512 (RMB) (AMD)

58. **Gilead Sciences, Inc.** v. Mylan Pharmaceuticals Inc.
U.S. District Court — District of Delaware
C.A. No. 1:16-cv-00192

59. **Bayer Consumer Care, AG., et al.** v. Belmora, LLC, et al.
United States District Court — Eastern District of Virginia (Alexandria Division)
Case No.: 1:14-cv-00847 (CMH)(JFA)

60. **Boehringer Ingelheim Pharma GmbH & Co. KG et al.** v. Teva Pharmaceuticals USA, Inc. et al.
United States District Court — District of New Jersey

No. 3:14-CV-7811 (MLC-TJB); No. 3:14-CV-1662 (MLC-TJB); No. 3:14-CV-7880 (MLC-TJB)

61. **Otsuka America Pharmaceutical, Inc.** v. Pfizer, Inc.
American Arbitration Association
Case No.: 01-16-0004-1233/01-16-0004-0951

62. **Momenta Pharmaceuticals, Inc., Sandoz Inc.** v. Amphastar Pharmaceuticals, Inc. et al.
United States District Court — District of Massachusetts
No. 1:11-CV-11681

63. **Dell Inc. and Dell Products L.P.** v. Hitachi, Ltd. et al.
United States District Court — Northern District of California
Case No. M:10-cv-02143-RD/3:13-cv-03350-RS

64. LG Display Co., Ltd. v. **Amtran Technology Co., Ltd. and Amtran Electronics (Suzhou) Co., Ltd. China**
International Court of Arbitration
Case No. 20946/CYK (c. 20963/CYK)

65. **Gilead Sciences, Inc. et al.** v. Watson Laboratories, Inc.
United States District Court — District of New Jersey
C.A. No. 15-CV-2350 (RMB) (JS)

66. **Copart, Inc.** v. Sparta Consulting, Inc.
United States District Court — Eastern District of California
No. 2:14-CV-00046-KJM-CKD

67. Elaine Ann Gold et al. v. **Dekalb County School District et al.**
Superior Court of Dekalb County — State of Georgia
Civil Action File No. 11-CV-3657-5

68. In re: Syngenta Litigation
County of Hennepin (Fourth Judicial District) — State of Minnesota
No. 27-CV-15-3785

69. **Sprint Communications Company L.P., et al.** v. Cox Communications, Inc., et al.
U.S. District Court — District of Delaware
Case No. 1:12-cv-00487-SLR

70. **Endo Pharmaceuticals Solutions Inc., Bayer Intellectual Property GMBH et al.** v. Paddock Laboratories, LLC et al.

U.S. District Court — District of Delaware
C.A. No. 14-1422-SLR

71. **GlaxoSmithKline LLC et al.** v. Pernix Therapeutics Holdings, Inc.
International Court of Arbitration
ICC Case No. 21284/RD

72. **Hospira, Inc. et al.** v. Eurohealth International SARL et al.
U.S. District Court — District of Delaware
Civil Action No. 1:14-cv-487-GMS

73. Nexus Display Technologies LLC v. **Dell Inc.**
U.S. District Court — District of Texas (Marshall Division)
Case No. 2:14-cv-00762

74. **Adidas AG et al.** v. Under Armour Inc. and MapMyFitness, Inc.
U.S. District Court — District of Delaware
C.A. No. 14-130 (GMS)

75. **Levi Strauss & Co.** v. Deloitte Consulting LLP et al.
Superior Court of the State of California — County of San Francisco
No. CGC-09-487219

76. Sanofi-Aventis U.S. LLC et al. v. **Eli Lilly and Company**
U.S. District Court — District of Delaware
Case No. 14-113-RGA-MPT

77. **Sprint Communications Company L.P.** v. Comcast Cable Communications, LLC, et al.
U.S. District Court — District of Kansas
Case No. 11-cv-2684 JWL/JPO

78. **Sprint Communications Company L.P.** v. Cable One, Inc.
U.S. District Court — District of Kansas
Case No. 11-cv-2685 JWL/JPO

79. **Sprint Communications Company L.P.** v. Time Warner Cable Inc. et al.
U.S. District Court — District of Kansas
Case No. 11-cv-2686 JWL/JPO

80. **Lavastone Capital LLC** v. Coventry First LLC, et al.
U.S. District Court — Southern District of New York
C.A. No.: 14-CV-7139 (Judge Jed S. Rakoff)

81. Pericor Therapeutics v. **Merck & Co., Inc.**

American Arbitration Association
AAA Arbitration No. 13 122 J03052

82. **Lufkin Industries, Inc.** v. International Business Machines et al.
District Court — Angelina County, Texas
Case No.: cv-02073-13-02

83. **Sunovion Pharmaceuticals Inc.** v. Takeda GMBH
International Court of Arbitration
ICC Case No. 19231/GFG

84. **LG Household and Health Care Limited** v. Akinari Ikka and Eri Ikka
International Court of Arbitration
ICC Arbitration No. 19421/CYK

85. **Mirowski Family Ventures, LLC.** v. Boston Scientific Corp. et al.
Circuit Court — Montgomery County, Maryland (Judge Ronald B. Rubin)
Civil No. 373798-V

86. **Dell Inc. et al** v. Hitachi, Ltd. et al.
U.S. District Court — Northern District of California (San Francisco Division)
Case No.: 3:13-cv-02171-SC

87. Purdue Pharma L.P. et al v. **Amneal Pharmaceuticals, LLC, Teva Pharmaceuticals USA, Inc.**
U.S. District Court — Southern District of New York (Judge Stine)
Case No. 13-cv-3372 (SHS)
Case No. 13-cv-4606 (SHS)

88. **Gilead Sciences, Inc. and Emory University** v. Cipla Limited
U.S. District Court — Southern District of New York
Civil Action No. 12-CIV-6350 (RJS) (AJP)
Civil Action No. 12-CV-6351 (RJS) (AJP)

89. **Gilead Sciences, Inc. and Emory University** v. Lupin Limited
U.S. District Court — Southern District of New York
Civil Action No. 12-CIV-6293 (RJS) (AJP)
Civil Action No. 12-CV-6294 (RJS) (AJP)

90. Galderma Laboratories, L.P. et al v. **Actavis Mid Atlantic LLC**
U.S. District Court — Northern District of Texas
3:12-CV-2038

91. MPEG LA, L.L.C. v. **Dell Global B.V. and Dell Products, L.P.**
Court of Chancery — The State of Delaware

C.A. No. 7016-VCP

92. **Source Healthcare Analytics, Inc., Wolters Kluwer U.S. Corporation et al.** v. SDI Health LLC et al.
Court of Common Pleas — Philadelphia County (Commerce Court Program)
No. 02290

93. United States of America *ex rel.* Donald Gale v. **Omnicare, Inc.**
U.S. District Court — Northern District of Ohio (Eastern Division)
Case No. 1:10 CV-0127

94. **Scienton Technologies, Inc.** v. Computer Associates International, Inc.
U.S. District Court — Eastern District of New York
Case No. 04-CV-2652 (JS)(ETB)

95. In re Oxycontin Antitrust Litigation
U.S. District Court — Southern District of New York (Judge Stine)
Case No. 04-md-1603 (SHS)

96. **Avid Technology, Inc.** v. Harmonic Inc.
U.S. District Court — District of Delaware
Civil Action No. 1:11 CV-01040-GMS-SRF

97. **Gilead Sciences, Inc.** v. Sigmapharm Laboratories, LLC
U.S. District Court — District of New Jersey
C.A. No. 10-CV-4931 (SDW) (MCA)

98. **Bayer Healthcare LLC** v. Pfizer Inc.
U.S. District Court — Northern District of Illinois
Civil Action No. 1:12-cv-00630

99. Kimberly-Clark Corporation v. **Cardinal Health 200, LLC et al.**
U.S. District Court — Northern District of Georgia (Atlanta Division)
Civil Action No. 1:10 CV-0034-CAP

100. Multimedia Patent Trust v. **Apple Inc., LG Electronics, Inc. et al.**
U.S. District Court — Southern District of California
Case No. 10-CV-2618 JLS RBB

101. The Swatch Group Ltd. et al. v. **Tiffany and Company et al.**
Netherlands Arbitration Institute
NAI Case No. 3905

102. Boston Scientific Corporation et al. v. **Mirowski Family Ventures, LLC.**
U.S. District Court — Southern District of Indiana (Indianapolis Division)

Civil Action No. 1:11-cv-0736WTL DKL

103. **Tyco Healthcare Group LP et al.** v. Pharmaceutical Holdings Corp. et al.
U.S. District Court — District of New Jersey
C.A. No. 07-cv-1299 (SRC)(MAS)

104. Teva Neuroscience, Inc., et al. v. **Watson Laboratories, Inc., et al.**
U.S. District Court — District of New Jersey
C.A. No. 2:10-cv-05078 (CCC) (JAD); C.A. No. 2:11-cv-03076 (CCC) (JAD)

105. PSN Illinois, LLC. v. **Abbott Laboratories, Inc. and Abbott Bioresearch Center, Inc.**
U.S. District Court — Northern District of Illinois (Eastern Division)
Case No. 09-cv-05879

106. Hoffman-La Roche Inc. v. **Teva Pharmaceuticals USA, Inc. et al.**
U.S. District Court — New Jersey
Civ. Action No. 2:09-cv-05283; Civ. Action No. 2:09-cv-06335

107. Armando Plascencia et al. v. **Lending 1st Mortgage et al.**
U.S. District Court — Northern District of California
Case No. 4:07-cv-04485-CW

108. Aria Diagnostics, Inc. v. **Sequenom, Inc.**
U.S. District Court — Northern District of California
Case No. 3:11-cv-06391-SI

109. In re TFT-LCD (Flat Panel) Antitrust Litigation
On behalf of: **Dell Inc. and Dell Products L.P.**
U.S. District Court – Northern District of California (San Francisco Division)
Case No. 10 1064

110. MPEG-LA, L.L.C. v. **Audiovox Electronics Corporation et al.**
Supreme Court of the State of New York — County of Suffolk (Judge Emily Pines)
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111. Genzyme Corporation v. **Seikagaku Corporation, Zimmer Holdings, Inc. et al.**
U.S. District Court — District of Massachusetts (Judge Douglas P. Woodlock)
C.A. NO.: 1:11-cv-1-636-DPW

112. Rembrandt Vision Technologies, LP et al. v. **Bausch & Lomb, Inc.**
American Arbitration Association
Case No. 14 122 Y 00403 09

113. **DSM Desotech Inc.** v. 3D Systems Corporation and 3D Systems, Inc.
U.S. District Court — Northern District of Illinois (Eastern Division)
Civil Case No. 08 C 1531

114. Onyx Pharmaceuticals, Inc. v. **Bayer Corporation et al.**
U.S. District Court — Northern District of California
Case No. 3:09-cv-02145-MHP

115. **Sanofi-Aventis Deutschland GMBH et al.** v. Glenmark Pharmaceuticals Inc., USA, et al.
U.S. District Court – District of New Jersey (Judge Dennis M. Cavanaugh)
C.A. No. 07-CV-05855 (DMC-JAD)

116. **Advanced Stent Technologies, Inc.** v. Boston Scientific Corporation
American Arbitration Association
Case Nos. 65 180 Y 00290 08 and 65 489 00292 08

117. Jayhawk Capital Management LLC, et al. v. **LSB Industries, Inc., et al.**
U.S. District Court – District of Kansas
Case No.: 08-CV-2561 EFM/JPO

118. Ortho-McNeil-Janssen Pharmaceuticals, Inc. et al. v. **Watson Laboratories, Inc., Sandoz, Inc., Lupin Pharmaceuticals, Inc. et al.**
U.S. District Court – District of New Jersey
Civil No.: 08-5103 (SRC)(MAS)

119. **Bristol-Myers Squibb Company (U.S.A.)** v. Daiichi Sankyo Company Limited (Japan)
International Court of Arbitration
ICC Case No. 15564/EC/VRO

120. Bayer Healthcare Pharmaceuticals, Inc. v. **Schering Corporation**
Court of Chancery of the State of Delaware
C.A. No. 3548-VCS

121. **LG Electronics U.S.A., Inc.** et al. v. Whirlpool Corporation et al.
U.S. District Court – District of Delaware (Judge Gregory M. Sleet)
Civil Action No.: 08-CV-234

122. **Microsoft Corporation** v. Franchise Tax Board
Superior Court of the State of California – For the County of San Francisco
Case No.: CGC 08-471260

123. Securities and Exchange Commission v. Biovail Corporation et al.
On behalf of: **John Miszuk**

U.S. District Court – Southern District of New York
Civil Action No.: 08 Civ. 02979(LAK)

124. **Claredi Corporation** v. SeeBeyond Technology Corporation
U.S. District Court – Eastern District of Missouri (Eastern Division)
Civil Action No.: 4:04-CV-1304RWS

125. **LG Electronics U.S.A., Inc.** v. Whirlpool Corporation
U.S. District Court – Northern District of Illinois (Eastern District)
Civil Action No.: 08 C 242

126. Unigene Laboratories, Inc. et al. v. **Apotex, Inc. et al.**
U.S. District Court – Southern District of New York
Civil Action No.: 06-CV-5571

127. Sanofi-Aventis Canada Inc. et al. v. **Novopharm Limited**
Federal Court of Canada – Toronto
Court File No. T-1161-07 Dated December 5, 2007

128. **3M Company et al.** v. Moldex-Metric, Inc.
U.S. District Court – District of Minnesota
Civil Action No.: 03-CV-5292 (MJD/AJB)

129. Boehringer Ingelheim Pharmaceuticals, Inc. v. **Abbott Laboratories et al.**
Private Arbitration — Chicago, Illinois

130. Thomas Johnson v. **Clark/McHugh/Rausch and Walsh/Riteway**
Circuit Court of Cook County, Illinois (County Department, Law Division)
Case No.: 03 L 015015

131. Aventis Pharma S.A. v. **Baxter Healthcare Corporation**
The International Institute for Conflict Prevention and Resolution
CPR File: G-08-05

132. In re K-DUR Antitrust Litigation
On behalf of: **Schering-Plough Corporation**
U.S. District Court – District of New Jersey
Civil Action No.: 01-1652 (JAG); MDL Docket No. 1419

133. The Procter & Gamble Company v. **Ultreo, Inc.**
U.S. District Court – Southern District of New York
Civil Action No. 07 CIV 8379 (HB) (Judge Richard Sullivan)

134. Church & Dwight Co., Inc. v. **Abbott Laboratories**
U.S. District Court – District of New Jersey

Civil Action No. 05 CV 2142 (GEB) (Judge Garrett E. Brown)

135. **Boehringer Ingelheim International GmbH and Boehringer Ingelheim Pharmaceuticals, Inc.** v. Barr Laboratories Inc.
U.S. District Court – District of Delaware
C.A. No. 05-700-(KAJ) (Judge Joseph J. Farnan, Jr.)

136. **The Dow Chemical Company** v. Shell Oil Company
Circuit Court of Cook County, Illinois (County Department, Law Division)
Civil Action No.: 00L13873

137. Fresenius Medical Care Holdings, Inc. and Nabi Biopharmaceuticals, Inc. v. **Roxane Laboratories, Inc.**
U.S. District Court – Southern District of Ohio (Eastern Division)
Case No.: C2 05 889

138. Dyson Technology Limited and Dyson, Inc. v. **Maytag Corporation**
U.S. District Court – District of Delaware
Civil Action No.: 05-434-GMS

139. Casmier Bobak and Jeanette Bobak v. **The City of Chicago et al.**
Circuit Court of Cook County, Illinois (County Department, Law Division)
Case No.: 02 L 6981

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U.S. District Court – Northern District of Illinois (Eastern Division)
Case No.: CV-S-05-1112-RCJ-RJJ

141. **Schering-Plough, Ltd.** v. Centocor, Inc.
American Arbitration Association
AAA No.: 50 181 T 00350 05 (Judge Edward N. Cahn)

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Tab 2

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Depositions (and Exhibits)

1. Deposition of Dr. Seth Harrison, Volume 1, August 11, 2025.
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7. Ex. 12: Gwendolyn Wu, "As biotech recovers, venture firms' preferences appear to shift," BioPharma Dive, June 6, 2024.
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11. Ex. 16: Ryan Kimmitt and Marcela Vieira, "Research Synthesis: Time and Success Rates of Pharmaceutical R&D," last updated July 2020, Knowledge Network on Innovation and Access to Medicines, Global Health Centre.
12. Ex. 17: Shai Bernstein, Josh Lerner, and Filippo Mezzanotti, "Private Equity and Financial Fragility during the Crisis," *The Review of Financial Studies*, Volume 32, Issue 4, April 2019.
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Tab 3

Summary of Portfolio Companies (Q1-2025)

Company	Company Snapshot	Assets	Cash Out Date	Pool	Initial Investment	Investment to Date (millions)	Fair Value Investments (millions)	Stage
[1]	[2]	[1]	[1]	[2]	[2]	[2]	[2]	[2]
Aethon	Aethon Therapeutics is pursuing a new approach in immuno-oncology by creating covalent drug-modified neoantigens targeting key oncogenic mutations	p53Y220C, PAN KRAS TCE, P53 Multi	July 2025	Pool ATP V-2	November 2022	$17.00	$17.14	Active/Series A
Apertor	Apertor Pharmaceuticals is using synthetic biology to discover new drugs that reprogram human immunity to treat diseases	AP414, CRAF	July 2025	Pool ATP V-2	November 2020	$29.00	$28.86	Active/Series A
Ascidian	Ascidian Therapeutics is developing exon-editing RNA therapeutics to target the underlying causes of disease and restore normal protein function	Ph 2 (ACDN-01), MSH3	1Q 26	Pool ATP V-3	June 2021	$89.57	$138.93	Active/Series A
Aulos	Aulos Bioscience is developing AU-007, a highly differentiated IL-2 human antibody therapeutic with best-in-class potential in diverse solid tumors	Ph 2 (AU-007)	June 2025	Pool ATP V-2	October 2020	$60.00	$65.85	Active/Series A
Deep Apple	Deep Apple Therapeutics is accelerating drug discovery with a platform built upon advanced computational modeling and large-scale compound docking, cryo-EM based structural biology, and deep learning models for the exploration of a vast virtual chemical space and the elucidation of protein dynamics and motion	MRGPRX2, MC4R	August 2025	Pool ATP V-2	December 2021	$37.00	$41.88	Active/Series A
Evercrisp	Evercrisp Biosciences applies advanced computational sciences to discover and develop miniproteins with self-delivery properties designed to access brain, kidney, muscle, and other tissues that have been previously unreachable by genetic medicines	Kidney Disease, Muscle	June 2025	Pool ATP V-2	August 2021	$26.00	$23.37	Active/Series A
Initial	Initial Therapeutics discovers small molecule therapeutics designed to intervene in disease processes by modulating translation of pathogenic proteins in the ribosome	Pan AR	July 2025	Pool ATP V-1	July 2020	$51.27	$42.15	Active/Series A
Marengo	Marengo Therapeutics is a multi-platform immuno-oncology company; its lead asset is a next generation TCR vβ T cell engager that stimulates a natural "superkiller" T cell subset with an effector memory phenotype	Ph 2 (STAR0602), TriStar701, Al	July 31, 2025	Pool ATP V-3	June 2021	$56.02	$201.56	Active/Series B
Marlinspike	Marlinspike Therapeutics is establishing a platform to discover and develop small molecule inhibitors for RNA helicases, critical components of the alternative splicing and RNA processing machinery. These pathways are dysregulated in many cancers and represent a new target class	SF3B1	July 2025	Pool ATP V-2	February 2022	$26.73	$26.72	Active/Series A
Nereid	Nereid Therapeutics is discovering new disease treatments by applying pioneering research and technologies in biomolecular condensates	Myc, TDP43, BCL-9	May 2025	Pool ATP V-2	October 2020	$50.00	$28.39	Active/Series A
Nine Square	Nine Square Therapeutics is discovering and developing novel small molecule therapeutics for life-threatening neurodegenerative diseases including Parkinson's disease (PD) and ALS	Parkin, TRPML1	June 2025	Pool ATP V-1	June 2020	$48.40	$51.82	Active/Series A
Red Queen	Red Queen Therapeutics is pursuing a proprietary antiviral technology that has broad applicability against SARS-CoV-2 and other virulent diseases	Pan Flu, Covid	Extended - Min	Pool ATP V-2	October 2021	$27.60	$31.18	Active/Series A
Replicate	Replicate Bioscience is creating a best-in-class RNA medicines company using its proprietary, synthetic self-replicating RNA platform technology, with initial areas of focus being drug resistance in oncology and treatment of autoimmune and inflammatory disorders	Ph 1b (Rabies), EBV, ComboVax	July 2025	Pool ATP V-2	February 2021	$59.25	$58.91	Active/Series A
					Total	**$577.84**	**$756.76**	
					Average	**$44.45**	**$58.21**	

Sources & Notes:
[1] Complaint, May 30, 2023, paragraph 9.
[2] ATP Life Science Ventures, LP, First Quarter 2025 Report, as of March 31, 2025, ATP_00004687-ATP_00004706. The investment to date for Marlinspike varies by $1 million in source.

Tab 4

ATP Investments & Fair Value of Portfolio Companies

Company	2021			2022				2023				2024				2025
	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1
($ in millions)																
Invested to Date																
Aethon							$5.00	$5.00	$5.00	$5.00	$12.00	$12.00	$12.00	$17.00	$17.00	$17.00
Apertor	$3.00	$3.00	$6.50	$6.50	$6.50	$12.00	$12.00	$12.00	$15.00	$15.00	$17.00	$20.50	$25.00	$25.00	$25.00	$29.00
Ascidian	$25.57	$25.57	$35.57	$35.57	$45.57	$45.57	$55.57	$55.57	$60.57	$65.57	$77.56	$83.57	$89.57	$89.57	$89.57	$89.57
Aulos	$15.00	$30.00	$30.00	$30.00	$30.00	$40.00	$40.00	$40.00	$40.00	$45.00	$45.00	$50.00	$50.00	$55.00	$55.00	$60.00
Deep Apple			$5.00	$5.00	$5.00	$5.00	$10.00	$10.00	$10.00	$10.00	$13.50	$22.50	$22.50	$27.00	$31.00	$37.00
Evercrisp		$3.50	$3.50	$3.50	$3.50	$3.50	$8.00	$8.00	$8.00	$11.50	$11.50	$17.50	$17.50	$22.00	$22.00	$26.00
Initial	$3.80	$6.60	$6.60	$11.60	$11.60	$17.10	$17.10	$23.60	$23.60	$30.27	$30.27	$34.27	$40.27	$44.27	$47.27	$51.27
Marengo	$39.02	$39.02	$44.02	$49.02	$49.02	$49.02	$49.02	$49.02	$49.02	$49.02	$49.02	$56.02	$56.02	$56.02	$56.02	$56.02
Marlinspike				$3.50	$3.50	$3.50	$3.50	$5.60	$7.93	$11.43	$14.73	$14.73	$18.73	$26.73	$26.73	$27.73
Nereid	$4.00	$4.00	$6.60	$9.60	$14.60	$14.60	$14.60	$21.10	$21.10	$28.10	$28.10	$34.60	$34.60	$39.10	$43.60	$50.00
Nine Square	$4.20	$4.20	$7.80	$7.80	$12.80	$12.80	$18.40	$18.40	$24.90	$24.90	$31.40	$37.90	$37.90	$41.90	$44.40	$48.40
Red Queen			$5.00	$5.00	$12.00	$12.00	$12.00	$12.00	$15.30	$18.40	$21.50	$25.30	$25.30	$26.60	$26.60	$27.60
Replicate	$6.00	$10.00	$10.00	$20.00	$20.00	$29.00	$29.00	$35.00	$35.00	$40.00	$47.00	$47.00	$53.00	$53.00	$53.00	$59.25
FV Investments & Earnouts On-hand																
Aethon							$5.00	$5.00	$5.00	$5.00	$13.20	$14.99	$14.99	$19.99	$17.14	$17.14
Apertor	$3.00	$3.00	$6.50	$6.50	$6.50	$12.00	$12.00	$12.00	$15.00	$15.00	$18.70	$22.25	$26.75	$26.75	$28.86	$28.86
Ascidian	$25.57	$25.57	$35.57	$43.18	$53.18	$53.18	$80.00	$70.04	$75.04	$80.04	$98.20	$112.06	$126.04	$126.04	$138.93	$138.93
Aulos	$15.00	$30.00	$30.00	$39.21	$39.21	$49.21	$54.90	$54.86	$54.86	$59.86	$67.50	$71.84	$71.84	$76.84	$65.85	$65.85
Deep Apple			$5.00	$5.00	$5.00	$5.00	$10.00	$10.00	$10.00	$10.00	$16.80	$25.82	$25.82	$30.32	$41.88	$41.88
Evercrisp		$3.50	$3.50	$3.50	$3.50	$3.50	$8.00	$8.00	$8.00	$11.50	$12.65	$18.27	$18.27	$22.77	$23.37	$23.37
Initial	$3.80	$6.60	$6.60	$11.60	$11.60	$17.10	$17.10	$23.60	$23.60	$30.27	$37.84	$39.19	$50.11	$54.11	$42.15	$42.15
Marengo	$39.02	$39.02	$44.06	$59.19	$59.29	$59.60	$119.16	$119.36	$119.56	$119.76	$119.76	$190.81	$191.15	$191.49	$201.56	$201.56
Marlinspike				$3.50	$3.50	$3.50	$3.50	$5.60	$7.93	$11.43	$14.73	$14.86	$18.86	$26.86	$26.72	$26.72
Nereid	$4.00	$4.00	$6.60	$9.60	$14.60	$14.60	$14.60	$21.10	$21.10	$28.10	$39.34	$39.92	$39.92	$44.42	$28.39	$28.39
Nine Square	$4.20	$4.20	$7.80	$7.80	$12.80	$12.80	$18.40	$18.40	$24.90	$24.90	$34.54	$43.14	$43.14	$47.14	$51.82	$51.82
Red Queen			$5.00	$5.00	$12.00	$12.00	$14.10	$14.13	$17.43	$20.53	$25.80	$29.68	$29.68	$30.98	$31.18	$31.18
Replicate	$6.00	$10.00	$10.00	$20.00	$20.00	$29.00	$29.00	$35.33	$35.33	$40.33	$54.00	$58.28	$64.28	$64.28	$58.91	$58.91

Sources & Notes:

ATP Life Science Ventures, LP, Second Quarter 2021 Report, as of June 30, 2021, ATP_00223010-ATP_00223027, at -3014; ATP Life Science Ventures, LP, Third Quarter 2021 Report, as of September 30, 2021, ATP_00012188-ATP_00012202, at -2191; ATP Life Science Ventures, LP, Fourth Quarter 2021 Report, as of December 31, 2021, ATP_00028644-ATP_00028660, at -8648; ATP Life Science Ventures, LP, First Quarter 2022 Report, as of March 31, 2022, ATP_00012081-ATP_00012097, at -2085; ATP Life Science Ventures, LP, Second Quarter 2022 Report, as of June 30, 2022, ATP_00222800-ATP_00222815, at -2804; ATP Life Science Ventures, LP, Third Quarter 2022 Report, as of September 30, 2022, ATP_00222722-ATP_00222738, at -2726; ATP Life Science Ventures, LP, Fourth Quarter 2022 Report, as of December 31, 2022, ATP_00011853-ATP_00011870, at -1856; ATP Life Science Ventures, LP, First Quarter 2023 Report, as of March 31, 2023, ATP_00005929-ATP_00005948, at -5932; ATP Life Science Ventures, LP, Second Quarter 2023 Report, as of June 30, 2023, ATP_00022894-ATP_00022914, at -2898; ATP Life Science Ventures, LP, Third Quarter 2023 Report, as of September 30, 2023, ATP_00022738-ATP_00022757, at -2742; ATP Life Science Ventures, LP, Fourth Quarter 2023 Report, as of December 31, 2023, ATP_00249953-ATP_00249971, at -9957; ATP Life Science Ventures, LP, First Quarter 2024 Report, as of March 31, 2024, ATP_00022436-ATP_00022454, at -2440; ATP Life Science Ventures, LP, Second Quarter 2024 Report, as of June 30, 2024, ATP_00122649-ATP_00122667, at -2652; ATP Life Science Ventures, LP, Third Quarter 2024 Report, as of September 30, 2024, ATP_00005151-ATP_00005170, at -5154; ATP Life Science Ventures, LP, Fourth Quarter 2024 Report, as of December 31, 2024, ATP_00004868-ATP_00004887, at -4871; ATP Life Science Ventures, LP, First Quarter 2025 Report, as of March 31, 2025, ATP_00004687-ATP_00004706, at -4690

Tab 5

Summary of Portfolio Company Valuations (EOY 2024)

	1	2	3	4	5	6	7	8		9	10	11	12	13
Description	**Aethon**	**Apertor**	**Ascidian**	**Aulos**	**Deep Apple**	**Evercrisp**	**Initial**	**Marengo**		**Marlinspike**	**Nereid**	**Nine Square**	**Red Queen**	**Replicate**
Q4-2024 Invested Capital (from Tab 4) *(in millions)*	$17.00	$25.00	$89.57	$55.00	$31.00	$22.00	$47.27	$56.02		$26.73	$43.60	$44.40	$26.60	$53.00
Q4-2024 Value (from Tab 4) *(in millions)*	$17.14	$28.86	$138.93	$65.85	$41.88	$23.37	$42.15	$201.56		$26.72	$28.39	$51.82	$31.18	$58.91
Scenario 1: Fully-Diluted Scenario *($000s except for share value)*														
Implied Equity Value (historical)	$9,700	$6,969	$29,885	$40,919	$12,077	$9,958	$11,604	$17,596	$17,597	$12,047	$11,466	$8,130	$9,136	$17,607
Plus: Additional Series A Proceeds	$12,703	$22,000	$74,000	$40,000	$26,000	$18,500	$46,272	$39,002	$39,002	$23,225	$42,600	$43,400	$21,600	$47,000
Total Equity Value	$22,403	$28,969	$103,885	$80,919	$38,077	$28,458	$57,876	$56,598	$56,599	$35,272	$54,066	$51,530	$30,736	$64,607
Market Adjustment	0.0%	0.0%	0.0%	0.0%	0.0%	-15.0%	-10.0%	0.0%	0.0%	0.0%	0.0%	-10.0%	-10.0%	-15.0%
Company-Specific/Milestone Adjustment	0.0%	15.0%	60.0%	20.0%	35.0%	25.0%	0.0%	100.0%	100.0%	0.0%	-35.0%	30.0%	30.0%	30.0%
Adjusted Equity Value as of Estimate Date	$22,403	$33,314	$166,216	$97,103	$51,404	$30,237	$52,088	$113,196	$113,198	$35,272	$35,143	$60,290	$35,961	$71,391
Other Adjustments								$87,873	$87,873					
Total Shares Outstanding (Preferred, Common, Issued Options)	22,403	28,969	103,885	117,105	38,077	28,458	57,876	52,797	52,798	35,272	54,066	51,530	30,736	64,607
Value per Share (Controlling, Marketable)	$1.00	$1.15	$1.60	$0.83	$1.35	$1.06	$0.90	$3.81	$3.81	$1.00	$0.65	$1.17	$1.17	$1.11
Series A Preferred Stock Value per share (Controlling, Non-Marketable)	$1.00	$1.15	$1.60	$0.83	$1.35	$1.06	$0.90	$3.81	$3.81	$1.00	$0.65	$1.17	$1.17	$1.11
								** preferred stock*						
Scenario 2: Trade Sale (accounting for call option) *($000s except for share value)*														
Implied Equity Value (historical)	$8,200	$5,555	$19,847	$28,899	$8,550	$6,800	$6,800	$17,517	$17,517	$7,914	$6,100	$5,550	$7,850	$12,915
Plus: Additional Series A Proceeds	$12,703	$22,000	$74,000	$40,000	$26,000	$18,500	$46,272	$39,002	$39,002	$23,225	$42,600	$43,400	$21,600	$47,000
Total Equity Value	$20,903	$27,555	$93,847	$68,899	$34,550	$25,300	$53,072	$56,519	$56,519	$31,139	$48,700	$48,950	$29,450	$59,915
Market Adjustment	0.0%	0.0%	0.0%	0.0%	0.0%	-15.0%	-10.0%	0.0%	0.0%	0.0%	0.0%	-10.0%	-10.0%	-15.0%
Company-Specific/Milestone Adjustment	0.0%	15.0%	60.0%	20.0%	35.0%	25.0%	0.0%	100.0%	100.0%	0.0%	-35.0%	30.0%	30.0%	30.0%
Adjusted Equity Value as of Estimate Date	$20,903	$31,688	$150,155	$82,679	$46,643	$26,881	$47,765	$113,038	$113,038	$31,139	$31,655	$57,272	$34,457	$66,206
Other Adjustments								$87,873	$87,873					
Value of Series A Preferred per share	$1.03	$1.17	$1.54	$0.82	$1.35	$1.06	$0.87	$11.88	$2.95	$1.00	$0.65	$1.16	$1.18	$1.13
									** Series B*					
Scenario 1 Share Weighting	75%	75%	75%	75%	75%	75%	75%	0%	0%	75%	75%	75%	75%	75%
Scenario 2 Share Weighting	25%	25%	25%	25%	25%	25%	25%	100%	100%	25%	25%	25%	25%	25%
Series A Preferred Stock Holdings	17,000	25,000	84,000	79,595	31,000	22,000	47,272	5,600	39,117	26,725	43,600	44,400	26,600	53,000
Aggregate Value (Valuation): Weighted Share Price × No. Pref. Shares	$17,137	$28,858	$133,205	$65,845	$41,876	$23,370	$42,145	$66,508	$115,224	$26,722	$28,389	$51,818	$31,184	$58,911
FV Recommendation (Series A) *(in $000s)*	**$17,150**	**$28,900**	**$133,200**	**$65,800**	**$41,900**	**$23,400**	**$42,100**	**$66,500**		**$26,700**	**$28,400**	**$51,800**	**$31,200**	**$58,900**
FV Recommendation (Common/Series B) *(in $000s)*			**$5,700**						**$115,200**					

Sources & Notes:

Valuation Analysis of Holdings in Aethon Therapeutics, Inc. - ASC 820, prepared for: ATP Life Science Ventures, L.P., valuation date: December 31, 2024, DiFilippo Corporate Finance Group, LLC, ATP_00002037-2111; Valuation Analysis of Holdings in Apertor Pharmaceuticals, Inc. - ASC 820, prepared for: ATP Life Science Ventures, L.P., valuation date: December 31, 2024, DiFilippo Corporate Finance Group, LLC, ATP_00002112-2186; Valuation Analysis of Holdings in Ascidian Therapeutics, Inc. - ASC 820, prepared for: ATP Life Science Ventures, L.P., valuation date: December 31, 2024, DiFilippo Corporate Finance Group, LLC, ATP_00002187-2274; Valuation Analysis of Holdings in Aulos Bioscience, Inc. - ASC 820, prepared for: ATP Life Science Ventures, L.P., valuation date: December 31, 2024, DiFilippo Corporate Finance Group, LLC, ATP_00002296-2379; Valuation Analysis of Holdings in Deep Apple Therapeutics, Inc. - ASC 820, prepared for: ATP Life Science Ventures, L.P., valuation date: December 31, 2024, DiFilippo Corporate Finance Group, LLC, ATP_00002380-2454; Valuation Analysis of Holdings in Evercrisp Biosciences, Inc. - ASC 820, prepared for: ATP Life Science Ventures, L.P., valuation date: December 31, 2024, DiFilippo Corporate Finance Group, LLC, ATP_00002455-2529; Valuation Analysis of Holdings in Initial Therapeutics, Inc. - ASC 820, prepared for: ATP Life Science Ventures, L.P., valuation date: December 31, 2024, DiFilippo Corporate Finance Group, LLC, ATP_00002530-2604; Valuation Analysis of Holdings in Marengo Therapeutics, Inc. - ASC 820, prepared for: ATP Life Science Ventures, L.P., valuation date: December 31, 2024, DiFilippo Corporate Finance Group, LLC, ATP_00002605-2684; Valuation Analysis of Holdings in Marlinspike Therapeutics, Inc. - ASC 820, prepared for: ATP Life Science Ventures, L.P., valuation date: December 31, 2024, DiFilippo Corporate Finance Group, LLC, ATP_00002685-2768; Valuation Analysis of Holdings in Nereid Therapeutics, Inc. - ASC 820, prepared for: ATP Life Science Ventures, L.P., valuation date: December 31, 2024, DiFilippo Corporate Finance Group, LLC, ATP_00002769-2843; Valuation Analysis of Holdings in Nine Square Therapeutics Corporation, - ASC 820, prepared for: ATP Life Science Ventures, L.P., valuation date: December 31, 2024, DiFilippo Corporate Finance Group, LLC, ATP_00002844-2918; Valuation Analysis of Holdings in Red Queen Therapeutics, Inc. - ASC 820, prepared for: ATP Life Science Ventures, L.P., valuation date: December 31, 2024, DiFilippo Corporate Finance Group, LLC, ATP_00002919-3000; and Valuation Analysis of Holdings in Replicate Bioscience, Inc. - ASC 820, prepared for: ATP Life Science Ventures, L.P., valuation date: December 31, 2024, DiFilippo Corporate Finance Group, LLC, ATP_00003001-3082.

Tab 6

Summary of Portfolio Companies Investment Memos

Company	Series A Amount		Tranches					
			1	2	3	4	5	6
($ in millions)								
Aethon	$30	Date	Dec 2022	Q3 2023	Q3 2024	Q2 2025	Q1 2026	
		Amount	$6.0	$5.0	$6.0	$6.0	$7.0	
		Description	Close	Identify lead antibody	Candidate nomination and CMC sale up	Pre-IND package for lead candidate	IND for lead program and have to raise $14-$15M for clinical studies	
Apertor	$50	Date	Q4 2020	Q3 2021	Q3 2022	Q1 2023	Q3 2024	
		Amount	$3.0	$3.5	$6.0	$21.5	$16.0	
		Description	Establish Synthetic Biology Platform	Identify two leads	Development candidate nomination (DCN) in first indication	IND in first indication and DCN in second indication	Completion of Phase 1 trial in first indication and IND in second indication within 6 months	
Aulos	$40	Date	Q4 2020	Q4 2021	Q4 2022			
		Amount	$15.0	$10.0	$15.0			
		Description	Completion of IND-enabling activities and IND submission	Completion of Phase 1a trial	Completion of Phase 1b trial			
Deep Apple	$52	Date	Q1 2022	Q4 2022	Q3 2023	Q2 2024	Q4 2024	
		Amount	$5.0	$7.0	$12.0	$14.0	$14.0	
		Description	Close	Identification of first Lead	First DCN	First IND	Second IND	
Evercrisp	$75	Date	Q3 2021	Q2 2022	Q1 2023	Q3 2023	Q2 2024	Q2 2025
		Amount	$3.5	$4.5	$5.5	$20.0	$20.0	$21.5
		Description	Close	Identification of candidate enzyme	Self-delivery properties demonstrated *in vitro*	Self-delivery properties demonstrated *in vivo*	Two INDs	Two clinical proof-of-mechanisms
Initial	$75	Date	Q3 2020	Q1 2021	Q3 2021	Q3 2022	Q3 2023	Q3 2024
		Amount	$1.0	$1.7	$3.8	$15.8	$18.3	$34.0
		Description	Validate synthetic transformations for privileged library; set up ribosomal profiling platform	Completion of privileged library synthesis; high-throughput screening (HTS) for Target 1	Complete hit-to-lead campaign and initiate studies for Target 1; complete screening for Targets 2 and 3	Initiate lead optimization for Target 1; complete hit-to-lead campaign and studies for Targets 2, 3, and 4	Deliver DCN for Target 1; initiate lead optimization for Targets 2, 3, and 4; complete hit-to-lead campaign and studies for Target 5	Phase 1 trial for Target 1; Phase 1 readiness for Targets 2, 3, and 4; DCN for Target 5; initiate lead optimization for Target 6
Marlinspike	$65	Date	Q4 2021	Q4 2022	Q3 2023	Q2 2024	Q1 2025	Q3 2025
		Amount	$3.5	$7.0	$12.0	$14.0	$14.0	$14.5
		Description	Close	CEO hired; hit identified; second program biologically validated; platform developed	DHX15 enters lead optimization; second helicase enters lead ID; third helicase program biologically validated; computational chemistry fully integrated	Ability to identify drug-like matter for multiple helicases established; further progress	Program 1 candidate nominated, ready for IND toxicity studies; HTS completed for other programs; full C-suite recruited	Program 1 IND; second helicase program candidate nominated
Nereid	$50	Date	Q3 2020	Q1 2021	Q3 2021	Q3 2022	Q4 2023	
		Amount	$1.0	$2.3	$3.3	$18.4	$25.3	
		Description	Corelet technology amenable to HTS	Begin characterization of novel high value targets within biomolecular condensate platform; complete HTS for Target 1	Complete hit-to-lead campaign and experiments for translation from Corelet tech to *in vitro* disease phenotypes for Target 1; complete HTS for Target 2	Lead optimization for Target 1 and 2; complete hit-to-lead campaigns and initiate *in vitro* studies for Targets 3 and 4; complete HTS for Targets 5 and 6	DCNs for Targets 1 and 2, lead optimization for Targets 3, 4, 5, and 6	

Company	Series A Amount		Tranches					
			1	2	3	4	5	6
($ in millions)								
Nine Square	$50	Date	Q3 2020	Q1 2021	Q4 2021	Q3 2022	Q4 2023	
		Amount	$1.0	$3.2	$2.9	$17.8	$25.5	
		Description	Complete HTS for Target 1	Complete hit-to-lead campaign and studies for Target 1; complete screen development for Target 2; set up cell profiling platform	Initiate lead optimization for Target 1; initiate structural biology studies for Target 2; set up cell imaging assays for Targets 3 and 4	Initiate IND enabling studies for Target 1; initiate lead optimization for Target 2; complete HTS, hit-to-lead, and structural biology studies for Targets 3 and 4; develop cell imagining assay for Target 5	Complete Phase 1 trial for Target 1; initiate IND enabling studies for Target 2; initiate lead optimization for Targets 3, 4, and 5	
Red Queen	$55	Date	Aug 2021	Dec 2021	Apr 2022	Sep 2022	Feb 2023	
		Amount	$5.0	$7.0	$10.0	$11.0	$22.0	
		Description	Close	SARS-CoV HR2 Development candidate nominated; RSV HR2 lead candidate development started; Pandemic Library work started	SARS-CoV HR2 IND filed, beginning of Phase 1; RSV HR2 development candidate nominated; five binding hits in Pandemic Library	SARS-CoV HR2 Phase 1 65% complete; RSV HR2 Pre-IND 60% complete; Pandemic Library 90% complete	SARS-CoV HR2 Phase 1 complete, Phase 2-3 ready; RSV HR2 Phase 1 ready	
Replicate	$40	Date	Q1 2021	Q3 2021	Q1 2022	Q3 2022	Q3 2022	Q1 2023
		Amount	$6.0	$4.0	$10.0	$5.0	$5.0	$10.0
		Description	Close	First *in vitro* drug product suitable for *in vivo* studies	First *in vivo* PoC	Second *in vivo* PoC	Third *in vivo* PoC	First IND filing

Sources & Notes:

Aethon Investment Memorandum, November 2022, ATP_00028118-ATP_00028142; Apertor Investment Memorandum, ATP_00296730-ATP_00296763; Aulos Investment Memorandum, ATP_00065785-ATP_00065807; Deep Apple Investment Memorandum, ATP_00012218-ATP_00012254; EverCrisp Investment Memorandum, ATP_00015765-ATP_00015802; Opal Investment Memorandum (Translation Inhibition), ATP_00191852-ATP_00191872; Marlinspike Investment Memorandum, ATP_00012157-ATP_00012179; Nereid Therapeutics Investment Memorandum (Biomolecular Condensates), ATP_00192073-ATP_00192092; Nine Square Therapeutics Investment Memorandum (Movement Disorders), ATP_00191776-ATP_00191797; Red Queen Investment Memorandum, ATP_00028531-ATP_00028553; Replicate Investment Memorandum, ATP 00032648-ATP 00032684.

EXHIBIT V

CONFIDENTIAL

EFiled: Dec 09 2025 08:22PM EST
Transaction ID 77958704
Case No. 2025-0607-KSJM

IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

ATP III GP, LTD., in its capacity as general partner of ATP Life Science Ventures, L.P., **Plaintiff** **v** Rigmora Biotech Investor One LP and Rigmora Biotech Investor Two LP, **Defendants**	**C.A. No. 2025-0607-KSJM**

CORRECTED EXPERT REPORT OF

ILONNA RIMM, MD PHD CFA

AUGUST 16, 2025

Joint Exhibit
JX-1579
C.A. No. 2025-0607-KSJM

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I. QUALIFICATIONS

1. I, Ilonna Rimm, MD PhD CFA, am the Founder and Chief Executive Officer of Morninglight Healthcare Capital LLC and Rimm Healthcare Capital Advisory LLC. I have more than 20 years of experience in healthcare finance and life sciences, including senior roles in venture capital, equity research, pharmaceutical licensing, and clinical development. My current work focuses on the valuation and financing of healthcare companies across the biotechnology, medical device, healthcare services, and life sciences tools sectors.

2. I hold an MD and a PhD in Immunology from Harvard University, and I have held board certifications in Pediatrics and Pediatric Hematology-Oncology. I have maintained my Massachusetts Medical License in the Active status. My academic medical experience includes more than a decade of clinical and teaching roles at the Boston Children's Hospital and the Dana-Farber Cancer Institute, with a focus on hematopoietic stem cell transplantation and immunodeficiency. During my Assistant Professor (Pediatrics) role at the Boston Children's Hospital, Brigham and Women's Hospital and Harvard Medical School, I served as an Attending Physician in the Stem Cell transplant units, where I had full legal and medical responsibility for 20 critically ill stem cell transplant patients and directed a team of 50 professionals. Concurrently, I led a preclinical laboratory of five professional scientists, where we developed preclinical stem cell transplant data for a funded NIH grant. My scientific experience is extensive; I worked at the lab bench for eleven years and supervised scientific laboratory work for five years. With regard to my active medical expertise, I currently work for the US Government as a Regional Medical Consultant and I review Social Security Disability applications.

3. I hold the Chartered Financial Analyst (CFA) designation from the CFA Institute. I have served as an Industry Mentor for university students and faculty (at Northeastern University) associated with the CFA Institute's Investment Research Challenge competition. In this role, I provide advice related to valuation of both healthcare and non-healthcare companies.

4. Currently, I advise early-stage life sciences companies on financing strategy and valuation, including through my role as a Financing Expert at the Harvard Innovation Lab, based at

Harvard Business School. In this capacity, I work with founders and CEOs to develop investment theses, build valuation models, and raise Seed and Series A capital. My advisory work has contributed to successful financing rounds, including for companies that subsequently became publicly traded.

5. Prior to my current roles, I worked in both buy-side and sell-side healthcare finance in public equity roles. As a healthcare research analyst at Trillium Asset Management, I managed over $200 million in healthcare equities and was recognized for exceptional investment performance. On the sell side, I led physician engagement at Lazard Capital Markets and published Equity Research notes. I also held a consulting role in institutional equity research at Leerink Swann & Company (now Leerink Partners).

6. I served as an Entrepreneur-in-Residence at Oxford Bioscience Partners, a life science venture capital firm. In this role, I advised General Partners on capital commitment decisions for the Oxford Bioscience Partners IV Fund ($459 million) based upon analysis of clinical trial results. I participated in due diligence, valuation analysis, financial modeling, and term sheet negotiation for Oxford Bioscience Partners portfolio companies. I also worked as a Consultant in multiple emerging biotechnology companies.

7. I worked at Wyeth Pharmaceuticals. In my most recent position, I led due diligence, valuation analysis, and contract negotiation for licensing transactions ranging from $100 million to $900 million in oncology and genomics. Prior to my business development work, I served as Associate Director of Clinical Research and Development. I led successful FDA interactions for first-in-class drugs such as Neumega and Anti-B7 antibodies. I also managed clinical program budgets ranging from $2–10 million and oversaw multiple Phase I–IV trials, including pediatric and stem cell transplantation studies.

8. I have drawn on my interdisciplinary background in medicine, finance, and the healthcare industry to analyze issues involving company valuation, clinical development, capital formation, and investor decision-making.

9. My curriculum vitae, attached as Appendix A, provides additional details on my education, experience, publications, and professional roles. A list of the documents I considered in forming my opinions is attached as Appendix B.

II. ASSIGNMENT

10. I have been retained by Debevoise & Plimpton LLP, counsel for Rigmora Biotech Investor One LP and Rigmora Biotech Investor Two LP (collectively "Rigmora"), to provide expert opinions related to industry norms and investor expectations in early-stage biotechnology investing. Specifically, I have been asked to address the general processes and principles by which sophisticated investors evaluate, fund, and monitor biotechnology companies, particularly in relation to budgeting, milestone progress, and requests for accelerated funding.

11. In connection with this matter, I have been asked to:

- Provide an overview of early-stage biotechnology investing, including a discussion of the typical lifecycle of a life science technology investment from academic research through clinical development and commercialization;
- Explain the general risks, uncertainties, and timelines associated with early-stage biotech investment decisions;
- Describe the role of budgets and milestones in early-stage investment, including the typical use of timelines in budgets, and how milestone delays or failures may affect funding expectations and decisions; and
- Evaluate, in light of these considerations, whether the ATP Life Science Ventures, L.P. (the "Fund") portfolio companies at issue in this matter had met their specified milestones and, if not, whether Rigmora's decision to decline funding further disbursements for these companies was reasonable.

III. SUMMARY OF OPINIONS

12. Investing in early-stage biotechnology companies involves high levels of scientific, regulatory, and commercial risk. The vast majority of drug candidates, and the companies developing them,

ultimately fail, often after consuming tens or hundreds of millions of dollars in capital. Even with compelling hypotheses, most programs falter in preclinical or clinical testing due to lack of efficacy, unforeseen toxicity, or insurmountable development challenges. Regulatory risk adds another layer of unpredictability, as delays, setbacks, or restrictive labeling decisions by the FDA can derail programs or drastically limit their commercial viability. Finally, commercial risk stemming from marketplace competition, or limited market uptake can undermine the value of even technically successful programs.

13. The combination of long development timelines, high capital demands, and binary outcomes makes milestone-based funding essential to managing downside risk in the biotech sector. Investors typically structure capital commitments around clearly-defined, stage-appropriate milestones that function as checkpoints for scientific validation and operational progress. This framework allows investors to navigate uncertainty, reassess risk profiles at each critical juncture, and make evidence-based decisions about whether to continue funding. When milestones are missed, it signals a material deviation from the original investment thesis and heightens the risk that additional capital will not produce a viable return. The ability to reallocate capital away from programs that are not succeeding and towards new or more promising programs is critical to biotechnology investment.

14. In Section V of this report, I assess the progress of seven early-stage portfolio companies, Aethon Therapeutics, Apertor Pharmaceuticals, Deep Apple Therapeutics, EverCrisp Biosciences, Initial Therapeutics, Marlinspike Therapeutics, and Red Queen Therapeutics, against the budgets and milestone commitments the Plaintiff ("ATP") developed to secure investment from Rigmora. I find that key milestones had been missed by each company at the time of their most recent funding requests. In light of these missed milestones and given the investment structure and risk management considerations discussed in this report, I conclude that Rigmora's decisions not to fund investment tranches conditioned on milestones that had not been achieved, and to instead seek to reallocate capital (either within the same fund or elsewhere), were reasonable and aligned with established norms in biotech investing.

IV. OVERVIEW OF VENTURE CAPITAL INVESTING IN THE BIOTECH INDUSTRY

15. This section provides an overview of the biotechnology industry and the investment environment in which early-stage healthcare biotech companies operate. I begin with a high-level overview of the biotech sector and the recent investment landscape, followed by an explanation of the typical lifecycle that biotech companies must navigate—from early discovery, through clinical trials, to commercialization. I then discuss the risks inherent in biotech venture capital investing, including scientific uncertainty, regulatory hurdles, and market competition, all of which contribute to extraordinarily high rates of failure. Finally, I discuss the mechanisms that investors use to evaluate, monitor, and mitigate these risks over time, including investment thesis development, milestone-based funding models, and performance tracking.

16. As a result of the significant risks and high failure rates, capital reallocation is central to portfolio management in biotech venture investing. While early investments virtually always begin with enthusiasm, subsequent follow-on funding is typically reserved for programs that meet predefined scientific or operational milestones. Companies that fall behind due to missed milestones, emerging safety concerns, or shifting strategic focus, may have their funding discontinued in favor of stronger performers.

A. OVERVIEW OF THE BIOTECH INDUSTRY AND CURRENT MARKET LANDSCAPE

17. The healthcare sector is one of the largest components of the U.S. economy, comprising nearly 18% of GDP and close to 9% of the S&P 500's market value.[1] An important element of the healthcare sector is the biotechnology industry segment. Biotechnology refers to the application of biological science and engineering principles to improve human health and the environment.[2]

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[1] *Global Industry Classification Standard (GICS®)*, S&P Dow Jones Indices, https://www.spglobal.com/spdji/en/landing/topic/gics/ (last visited Aug. 12, 2025); *iShares Core S&P 500 ETF*, iShares by BlackRock, https://www.ishares.com/us/products/239726/ishares-core-sp-500-etf (last visited Aug. 12, 2025); *National Health Expenditure Data: Historical*, Centers for Medicare & Medicaid Services, https://www.cms.gov/data-research/statistics-trends-and-reports/national-health-expenditure-data/historical (last visited Aug. 12, 2025).

[2] *See* Ashish Swarup Verma, Shishir Agrahari, Shruti Rastogi, and Anchal Singh, *Biotechnology in the realm of history*, J. of Pharmacy and Bioallied Scis., 3(3) (2011), 321–323.

It is fundamentally a scientific and technological field that applies biology to address complex, real-life challenges.

18. Healthcare biotech companies specialize in areas such as drug discovery, gene therapy, diagnostics, genomics, biomaterials, and vaccine development.[3] Historically, research funding from institutions like the National Institutes of Health ("NIH") and regulatory support from the U.S. Food and Drug Administration ("FDA"), through accelerated approval pathways, have enabled the rapid commercialization of biotech-based therapies, particularly in response to rising rates of chronic disease associated with aging populations.[4]

19. Between 2020 and 2021, the biotech industry experienced a surge in investment as companies rapidly developed COVID-19 vaccines and treatments.[5] However, in 2022 and 2023, the funding environment shifted. Rising inflation and interest rates led investors to retreat from high-risk, early-stage biotech ventures in favor of safer assets.[6] These factors contributed to an increase in biotech company failures and funding cuts. According to *Fierce Biotech*'s "Biotech Graveyard" report, bankruptcies in the sector (which do not include other forms of failure like simply running out of money) increased sharply in 2023 to the highest level since 2010.[7] Figure 1 presents biotech bankruptcies from 2013 to 2023. Cost-cutting also became widespread, with IBIS World reporting that over 187 companies laid off staff in 2023, an increase of 57% from the prior year.[8]

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[3] *See Biotechnology in the United States*, MarketLine Industry Profile, 8 (2025).

[4] *Id.* at 9.

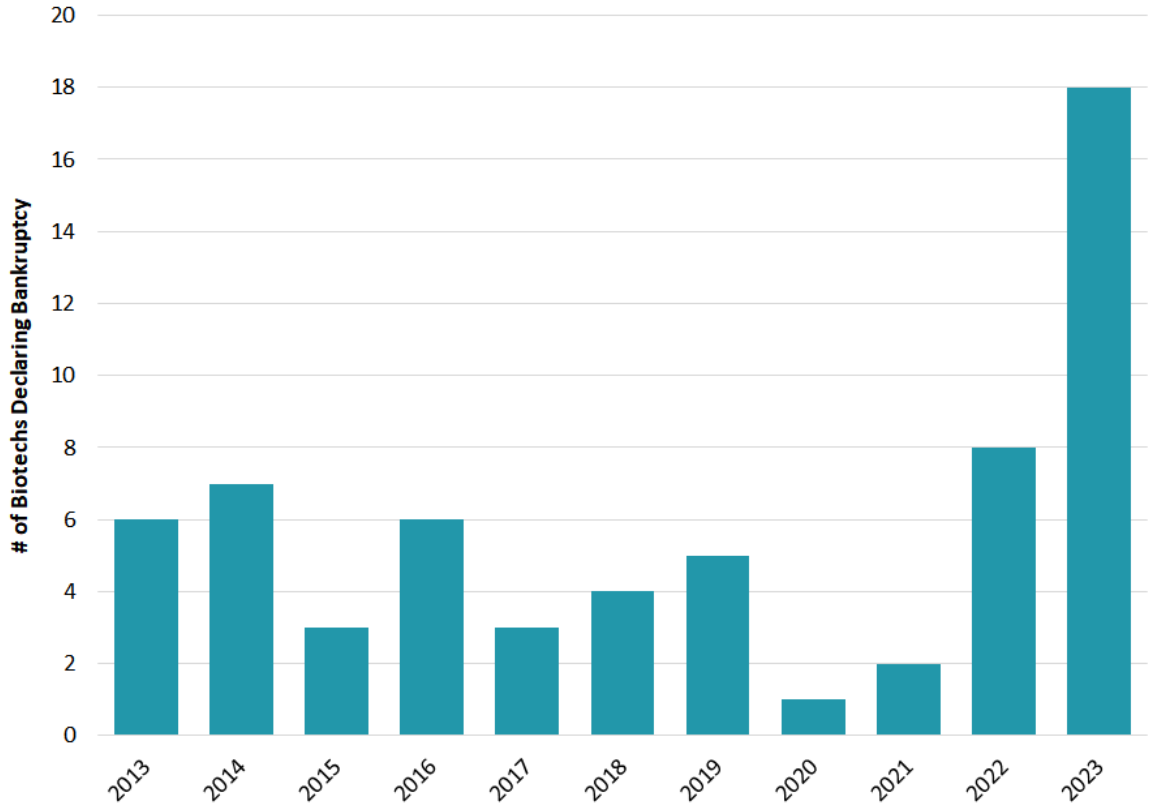
[5] Marley Brocker, *Biotechnology in the US*, IBISWorld, Life Sciences Report OD4022, 7 (2025).

[6] *Id.* at 7

[7] Gabrielle Masson, *The 2024 Biotech Graveyard*, Fierce Biotech, https://www.fiercebiotech.com/special-reports/2024-biotech-graveyard (last visited Aug. 14, 2025); Marley Brocker, *Biotechnology in the US*, IBISWorld, Life Sciences Report OD4022, 7 (2025).

[8] Marley Brocker, *Biotechnology in the US*, IBISWorld, Life Sciences Report OD4022, 7 (2025).

FIGURE 1: BIOTECH BANKRUPTCIES, 2013–2023



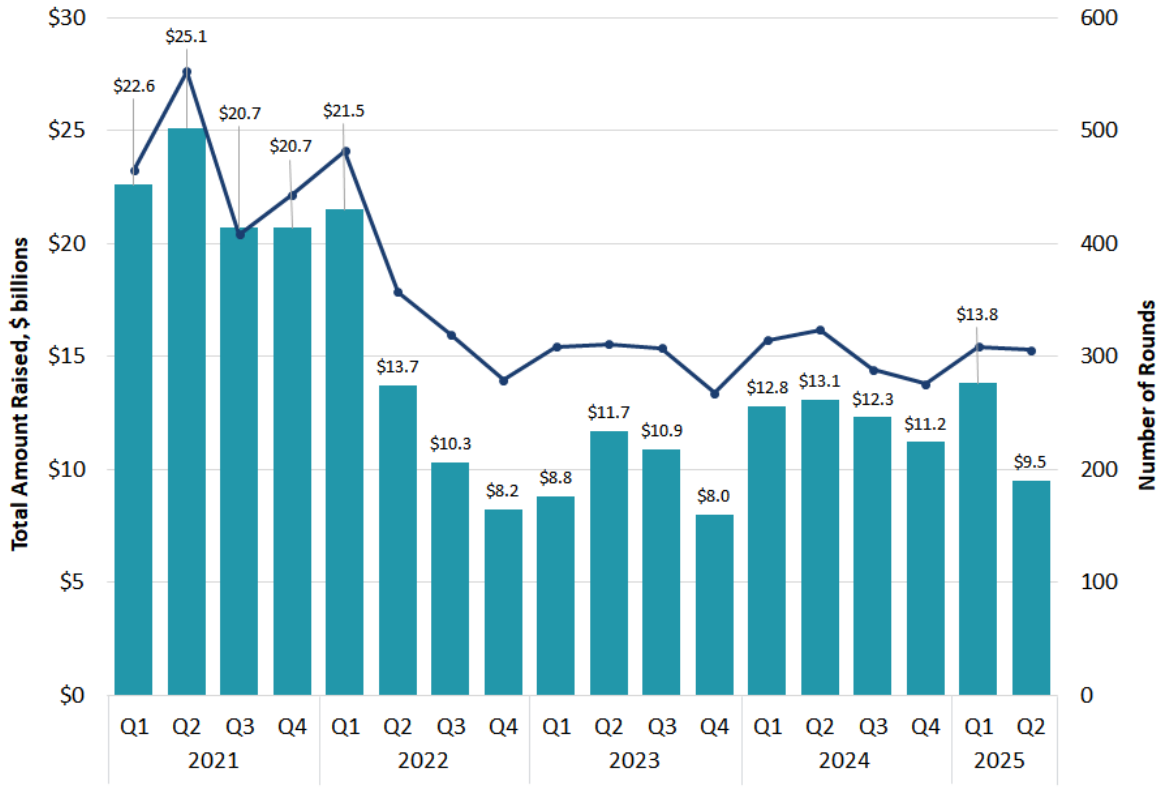
Notes and Sources:

Annalee Armstrong, Gabrielle Masson, *Biotech bankruptcies hit 10-year peak in 2023*, Fierce Biotech, https://www.fiercebiotech.com/special-reports/biotech-bankruptcies-break-10-year-record-2023 (last visited Aug. 14, 2025).

20. The downturn that started in 2022 and 2023 has continued until today, with biotech IPO activity remaining below the 2019 pre-pandemic level.[9] Figure 2 and Figure 3 illustrate how life science venture funding has declined by approximately 50% since pandemic-era highs and IPO activity has declined even more.

[9] Marley Brocker, *Biotechnology in the US*, IBISWorld, Life Sciences Report OD4022, 7 (2025); *2024 BioPharma Industry Insights: investment Trends, M&A Activity, and Market Dynamics*, J.P. Morgan, slide 13, https://www.jpmorgan.com/content/dam/jpmorgan/documents/cb/insights/outlook/jpm-biopharma-deck-q4-2024-final-ada.pdf (last visited Aug. 15, 2025).

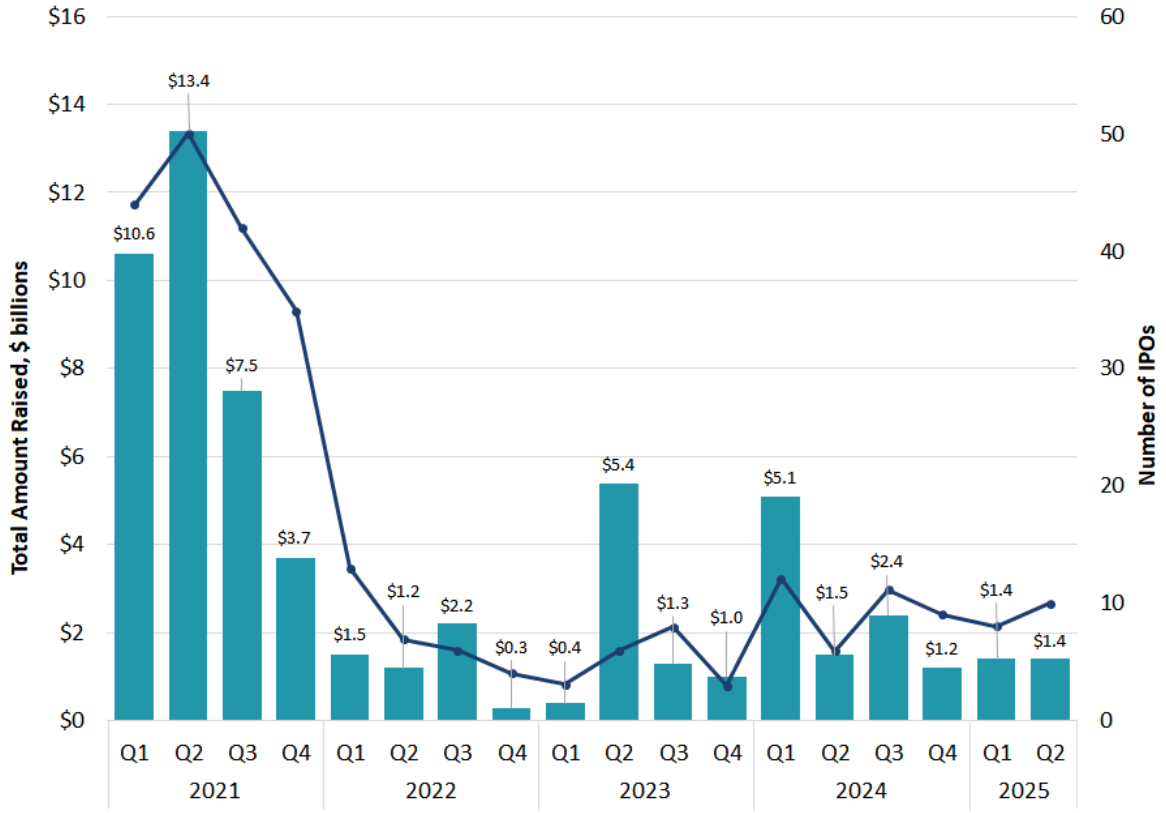
FIGURE 2: GLOBAL LIFE SCIENCES VENTURE ACTIVITY



Notes and Sources:

Ani Harutyunyan, *Healthcare and Life Sciences Quarterly Overview – Q2 2025*, DealForma, https://dealforma.com/healthcare-and-life-sciences-quarterly-overview-q2-2025/ (last visited Aug. 14, 2025).

FIGURE 3: GLOBAL LIFE SCIENCES IPO ACTIVITY



Notes and Sources:
Ani Harutyunyan, *Healthcare and Life Sciences Quarterly Overview – Q2 2025*, DealForma, https://dealforma.com/healthcare-and-life-sciences-quarterly-overview-q2-2025/ (last visited Aug. 14, 2025).

21. Investor funding has also become more selective, with capital increasingly flowing to companies with more advanced or validated pipelines, *i.e.*, those relatively closer to commercialization and revenue generation.[10] A recent *Wall Street Journal* article documents that investors are increasingly favoring lower risk clinical-stage companies over earlier-stage startups.[11] Data shows that in the first half of 2025, 62% of biotech venture rounds went to companies with programs already in clinical trials, up from 53% the previous year.[12] This reflects a broader shift

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[10] Marley Brocker, *Biotechnology in the US*, IBISWorld, Life Sciences Report OD4022, 4 (2025).

[11] Brian Gormley, *Venture Interest Slackens in Once-Hot Biotech*, Wall Street Journal, https://www.wsj.com/articles/venture-interest-slackens-in-once-hot-biotech-5a68036e (last visited Aug. 4, 2025).

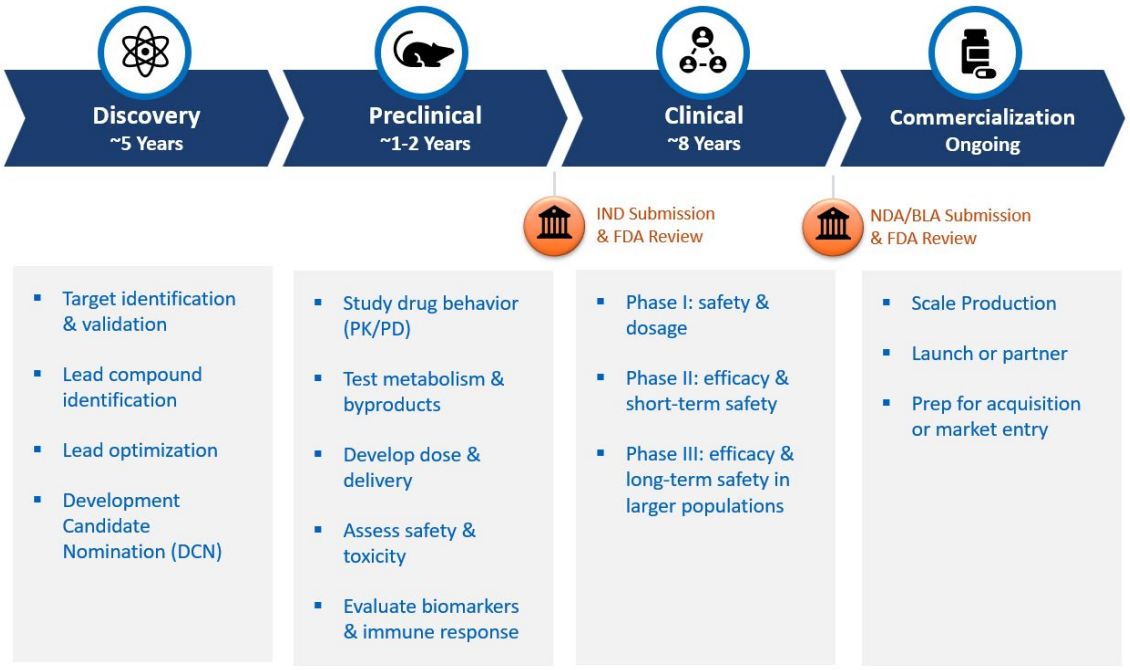
[12] *Id*.

in investor preference toward opportunities with clearer commercialization and exit potential, amid ongoing market uncertainty, limited IPO opportunities, and shifting macroeconomic conditions.

B. LIFECYCLE OF HEALTHCARE BIOTECH COMPANIES

22. In the healthcare biotech segment, an early-stage company's life cycle encompasses phases of development that span from initial research and discovery to full commercialization. **FIGURE** 4 depicts the life cycle of a biotech company, highlighting the process from drug discovery to commercialization, which often spans more than a decade. In each phase of development, the company faces significant scientific, regulatory, and financial complexities and challenges. A company's progress is typically milestone-driven, with each milestone serving as a gate that unlocks access to the next phase of development and funding. In the remainder of this section, I provide an overview of the common development phases of healthcare biotech companies.

FIGURE 4: LIFECYCLE STAGES OF HEALTHCARE BIOTECH COMPANIES



Notes and Sources:
[1] Discovery:

- Jeffrey Strovel et al., *Early Drug Discovery and Development Guidelines: For Academic Researchers, Collaborators, and Start-up Companies*, Assay Guidance Manual, Table 7 (S. Markossian et al. eds., Eli Lilly & Company and the National Center for Advancing Translational Sciences, 2012 updated 2016).

[2] Preclinical:

- **IND**: Investigational New Drug
- Gaurav Agrawal et al., *Fast to First-in-Human: Getting New Medicines to Patients More Quickly*, McKinsey & Company (Feb. 10, 2023), https://www.mckinsey.com/industries/life-sciences/our-insights/fast-to-first-in-human-getting-new-medicines-to-patients-more-quickly (last visited Aug. 14, 2025).
- *See generally* Section IV.B.2 and IV.B.3.

[3] Clinical:

- **NDA**: New Drug Application.
- **BLA**: Biologic Licensing Application.
- *Discovering New Drugs: The Importance of the Discovery Phase in Drug Development*, BioAgilytix, https://www.bioagilytix.com/solutions/phases/discovery-phase-drug-development/ (last visited July 30, 2025).
- *See generally* Section IV.B.4.

[4] Commercialization:

- *See generally* Section IV.B.5.

1. Discovery Phase

23. The lifecycle of a healthcare biotech company typically begins with the *discovery* phase. The primary goal in this phase is to identify and validate potential drug targets, and to identify the most promising chemical compound that can interact with the target as the candidate for advancement.[13] At a high level, the discovery phase consists of the following steps: target identification and validation, lead compound identification, and lead optimization and development candidate nomination. This phase can take up to five years,[14] depending on the complexity of the disease being studied, the maturity of the scientific platform, and the company's available resources.

Target Identification and Validation

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[13] *See Discovering New Drugs: The Importance of the Discovery Phase in Drug Development*, BioAgilytix, https://www.bioagilytix.com/solutions/phases/discovery-phase-drug-development/ (last visited July 30, 2025).

[14] *See, e.g.,* Jeffrey Strovel et al., *Early Drug Discovery and Development Guidelines: For Academic Researchers, Collaborators, and Start-up Companies*, Assay Guidance Manual, table 7 (S. Markossian et al. eds., Eli Lilly & Company and the National Center for Advancing Translational Sciences, 2012 updated 2016).

24. The first step in drug discovery is *target identification*, where scientists determine which molecules in the body, such as proteins or genes, play a role in causing or sustaining a disease.[15] The goal is to find a specific target that a drug could act upon to interrupt or reverse the disease process. A project typically advances beyond this stage when there is either peer-reviewed evidence supporting the relevance of the target in a known disease pathway, or newly generated biological data showing that modulating the target meaningfully affects the disease mechanism.[16]

25. After identifying a potential target, researchers perform further testing to confirm that influencing the target will have a meaningful therapeutic effect, a step known as *target validation*.[17] This step helps ensure the target is both relevant to the disease and likely to respond to the treatment being pursued, reducing the risk of failure in later stages of drug development.[18] Effective target identification and validation strengthen confidence in the link between the target and the disease.[19]

Screening, Hit Confirmation, and Lead Compound Identification

26. The next step after target validation is *lead compound identification*. A "lead compound" is a chemical compound that interacts with the validated target and produces the intended biological effect, and researchers identify such compounds by *screening* a library of chemical compounds.[20]

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[15] *Id.*; *Discovering New Drugs: The Importance of the Discovery Phase in Drug Development*, BioAgilytix, https://www.bioagilytix.com/solutions/phases/discovery-phase-drug-development/ (last visited July 30, 2025).

[16] Jeffrey Strovel et al., *Early Drug Discovery and Development Guidelines: For Academic Researchers, Collaborators, and Start-up Companies*, Assay Guidance Manual, (S. Markossian et al. eds., Eli Lilly & Company and the National Center for Advancing Translational Sciences, 2012 updated 2016).

[17] *Id.*; *Discovering New Drugs: The Importance of the Discovery Phase in Drug Development*, BioAgilytix, https://www.bioagilytix.com/solutions/phases/discovery-phase-drug-development/ (last visited July 30, 2025).

[18] Jeffrey Strovel et al., *Early Drug Discovery and Development Guidelines: For Academic Researchers, Collaborators, and Start-up Companies*, Assay Guidance Manual, table 7 (S. Markossian et al. eds., Eli Lilly & Company and the National Center for Advancing Translational Sciences, 2012 updated 2016); *Discovering New Drugs: The Importance of the Discovery Phase in Drug Development*, BioAgilytix, https://www.bioagilytix.com/solutions/phases/discovery-phase-drug-development/ (last visited July 30, 2025); JP Hughes, S. Rees, SB Kalindijan, and KL Philpott, *Principles of early drug discovery*," Brit. J. of Pharmacology, 162(6), 1239, 1239-1240 (2011).

[19] JP Hughes, S. Rees, SB Kalindijan, and KL Philpott, *Principles of early drug discovery*," Brit. J. of Pharmacology, 162(6), 1239, 1239-1240 (2011).

[20] Jeffrey Strovel et al., *Early Drug Discovery and Development Guidelines: For Academic Researchers, Collaborators, and Start-up Companies*, Assay Guidance Manual, (S. Markossian et al. eds., Eli Lilly & Company and the National Center for Advancing Translational Sciences, 2012 updated 2016).

27. The screening process requires the tools and resources needed to test large numbers of chemical compounds quickly and efficiently. Researchers first need to assemble a compound library, which is a large collection of diverse chemical substances to be tested.[21] Researchers then use different screening methods to detect compounds with promising activity. One widely used method is a laboratory test, known as a "high-throughput screening" (or "HTS") assay, which measures how each compound interacts with the biological target.[22] By using HTS, researchers can evaluate hundreds of thousands to millions of compounds in parallel, accelerating the discovery of promising drug candidates.[23] In addition to HTS, other techniques such as virtual screening, which uses computational docking models to evaluate virtual compound libraries against protein structures or known ligands, can help prioritize compounds for testing and explore novel chemical space, often at lower cost than large library screens.[24]

28. The output from the screening process is, ideally, a number of promising compounds, known as "hits," which demonstrate initial biological activity against a target of interest.[25] Hits then undergo "hit confirmation," a validation and filtering process that ensures only chemically sound and biologically relevant compounds enter the next step, "lead identification."[26]

---

[21] *Id*.; JP Hughes, S. Rees, SB Kalindijan, and KL Philpott, *Principles of early drug discovery*," Brit. J. of Pharmacology, 162(6), 1239, 1239-1240 (2011).

[22] *See High Throughput Screening*, ScienceDirect, https://www.sciencedirect.com/topics/chemistry/high-throughput-screening (last visited July 30, 2025) ("HTS is commonly used in pharmaceutical and biotechnology companies to identify compounds (called hits) with pharmacological or biological activity. These are used as starting points for medicinal chemical optimization during pharmacological probe or drug discovery and development.").

[23] JP Hughes, S. Rees, SB Kalindijan, and KL Philpott, *Principles of early drug discovery*," Brit. J. of Pharmacology, 162(6), 1239, 1243-1244 (2011).

[24] *Id.* at 1245-1246.

[25] *High Throughput Screening*, ScienceDirect, https://www.sciencedirect.com/topics/chemistry/high-throughput-screening (last visited July 30, 2025) ("HTS is commonly used in pharmaceutical and biotechnology companies to identify compounds (**called hits**) with pharmacological or biological activity. **These are used as starting points for medicinal chemical optimization during pharmacological probe or drug discovery and development**.") (emphasis added).

[26] To move a compound forward, it must meet a series of advancement criteria: Repeated activity in dose-response testing (e.g., concentration-response curves); Positive results in secondary assays testing specificity, selectivity, and mechanism of action; Confirmation of identity and purity; Validation of activity in a cell-based assay (if applicable); Evaluation of druggability (e.g., chemical stability, solubility, synthesis feasibility); Review of intellectual property (IP) potential; Optional: filing of a composition of matter invention disclosure. *See* Jeffrey Strovel et al., *Early Drug Discovery and Development Guidelines: For Academic Researchers, Collaborators, and Start-up Companies*, Assay Guidance Manual, (S. Markossian et al. eds., Eli Lilly & Company and the National Center for Advancing Translational Sciences, 2012 updated 2016).

29. Lead identification (also known as "hit-to-lead") involves selecting the most promising hits from the pool of validated hits.[27] This process filters down from the initial pool of hits to a smaller number of promising lead compounds that demonstrate improved activity and drug-like properties. These selected lead compounds will advance into the next stage: "lead optimization," and ultimately, "development candidate nomination."[28]

30. Once promising lead compounds have been identified, researchers often perform a "druggability" assessment, an important step in transforming a lead molecule into a drug.[29] This assessment evaluates whether a lead compound can bind effectively to a specific target and has favorable drug-like properties.[30] This step helps prioritize leads with the highest likelihood of success before advancing them into the lead optimization stage.

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[27] *Hit & Lead Discovery*, AXXAM, https://axxam.com/screening-hit-to-lead/hit-to-lead (last visited July 30, 2025) ("The hit-to-lead (H2L) process is a pivotal phase in drug discovery that involves transforming a "hit" compound, which shows initial activity in a high-throughput or virtual screening, into a 'lead' compound with enhanced potency and properties suitable for further development.").

[28] Jeffrey Strovel et al., *Early Drug Discovery and Development Guidelines: For Academic Researchers, Collaborators, and Start-up Companies*, Assay Guidance Manual, (S. Markossian et al. eds., Eli Lilly & Company and the National Center for Advancing Translational Sciences, 2012 updated 2016).

[29] JP Hughes, S. Rees, SB Kalindijan, and KL Philpott, *Principles of early drug discovery*," Brit. J. of Pharmacology, 162(6), 1239, 1239 (2011); Jeffrey Strovel et al., *Early Drug Discovery and Development Guidelines: For Academic Researchers, Collaborators, and Start-up Companies*, Assay Guidance Manual, (S. Markossian et al. eds., Eli Lilly & Company and the National Center for Advancing Translational Sciences, 2012 updated 2016).

[30] Jeffrey Strovel et al., *Early Drug Discovery and Development Guidelines: For Academic Researchers, Collaborators, and Start-up Companies*, Assay Guidance Manual, (S. Markossian et al. eds., Eli Lilly & Company and the National Center for Advancing Translational Sciences, 2012 updated 2016).

Lead Optimization and Development Candidate Nomination

31. After identifying lead compounds, researchers perform chemical "lead optimization," in which they refine each compound's chemical structure to improve how effectively it acts on the target, how selectively it avoids unintended effects, and how it behaves in the body.[31] They also make adjustments to reduce potential toxicity and enhance overall safety. Through multiple rounds of testing and modification, they aim to strike a balance between potency and safety, preparing the compound for successful preclinical and clinical development.[32]

32. A development candidate is a molecule selected at the end of lead optimization, out of approximately 7-10 promising molecules, with the intent to advance toward Phase I clinical trials.[33] This milestone is known as "Development Candidate Nomination" or "DCN."[34] DCN is an internal decision point that typically occurs before submitting an Investigational New Drug ("IND") application[35] with the U.S. Food and Drug Administration ("FDA") and marks the start of IND-enabling preclinical studies.

2. Preclinical Phase

33. Once the scientific concept is validated, a biotech company enters the *preclinical phase*, during which the therapeutic candidate undergoes further testing in preparation for human trials.[36] The primary objective of this phase is to evaluate a drug's potential effectiveness, appropriate dosing, and safety, primarily through *in vitro* (lab-based), *in vivo* (animal-based), and, in recent years,

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[31] *Id.*; *Discovering New Drugs: The Importance of the Discovery Phase in Drug Development*, BioAgilytix, https://www.bioagilytix.com/solutions/phases/discovery-phase-drug-development/ (last visited July 30, 2025).

[32] Jeffrey Strovel et al., *Early Drug Discovery and Development Guidelines: For Academic Researchers, Collaborators, and Start-up Companies*, Assay Guidance Manual, (S. Markossian et al. eds., Eli Lilly & Company and the National Center for Advancing Translational Sciences, 2012 updated 2016); *Discovering New Drugs: The Importance of the Discovery Phase in Drug Development*, BioAgilytix, https://www.bioagilytix.com/solutions/phases/discovery-phase-drug-development/ (last visited July 30, 2025).

[33] Jeffrey Strovel et al., *Early Drug Discovery and Development Guidelines: For Academic Researchers, Collaborators, and Start-up Companies*, Assay Guidance Manual, (S. Markossian et al. eds., Eli Lilly & Company and the National Center for Advancing Translational Sciences, 2012 updated 2016).

[34] *Id.*

[35] *See Investigational New Drug (IND) Application*, FDA, https://www.fda.gov/drugs/types-applications/investigational-new-drug-ind-application (last visited July 31, 2025).

[36] *Discovering New Drugs: The Importance of the Discovery Phase in Drug Development*, BioAgilytix, https://www.bioagilytix.com/solutions/phases/discovery-phase-drug-development/ (last visited July 30, 2025).

also *in silico* (computer-based) studies.[37] These studies are designed to generate data to help predict how the drug compound may behave in humans, and to support an IND application submission with the FDA.[38] The preclinical phase typically takes between one to two years, depending on the compound's complexity, the nature of required safety studies, and regulatory strategy.[39]

34. Preclinical studies cover a range of scientific evaluations that help bridge the gap between early laboratory research and clinical trials, including:

a. Pharmacokinetics ("PK") and pharmacodynamics ("PD"): These studies evaluate how the drug moves through the body, including absorption, distribution, metabolism, and excretion, (PK), and what effect it has on the body (PD).[40]

b. Drug metabolism testing: These studies assess how the body processes the drug, including whether it produces potentially harmful byproducts or interacts with other medications.[41]

c. Dose selection: This analysis ensures that the highest dose used in preclinical safety studies is both scientifically justified and relevant to humans. The way and how often the drug is given in preclinical studies should match, as closely as possible, the plan for clinical use.[42]

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37 *Roadmap to Reducing Animal Testing in Preclinical Safety Studies*, FDA, https://www.fda.gov/files/newsroom/published/roadmap_to_reducing_animal_testing_in_preclinical_safety_studies.pdf (last visited Aug. 11, 2025).

38 *Discovering New Drugs: The Importance of the Discovery Phase in Drug Development*, BioAgilytix, https://www.bioagilytix.com/solutions/phases/discovery-phase-drug-development/ (last visited July 30, 2025).

39 Gaurav Agrawal, Felix Bader, Jan Günthner, and Stephan Wurzer, *Fast to first-in-human: Getting new medicines to patients more quickly*, McKinsey & Company, https://www.mckinsey.com/industries/life-sciences/our-insights/fast-to-first-in-human-getting-new-medicines-to-patients-more-quickly (last visited Aug. 14, 2025).

40 *Preclinical Research in Drug Development: From Toxicology to Translational Insights*, AMS Biopharma, https://amsbiopharma.com/preclinical-research-drug-development/ (last visited Aug. 12, 2025).

41 *Preclinical Research for Drug Development: Importance and Process*, BioAgilytix, https://www.bioagilytix.com/solutions/phases/preclinical-research-drug-development/ (last visited Aug. 4, 2025).

42 Preclinical Research in Drug Development: From Toxicology to Translational Insights, AMS Biopharma, https://amsbiopharma.com/preclinical-research-drug-development/ (last visited Aug. 12, 2025); *Guidance for Industry - S6 Addendum to Preclinical Safety Evaluation of Biotechnology-Derived Pharmaceuticals*, FDA, 5-6, https://www.fda.gov/media/78034/download (last visited Aug. 12, 2025).

d. Toxicology studies: These are critical for identifying adverse effects and establishing a safety profile. Researchers test different dosage levels to evaluate the relationship between dose and adverse effects.[43]

e. Immunogenicity analysis: These studies help predict whether the drug might trigger unwanted immune responses.[44]

35. Once pre-clinical studies show that a product demonstrates sufficient pharmacological potential, the sponsor of the drug will initiate clinical trials to assess safety and the potential for therapeutic use in humans.[45]

3. IND Submission and FDA Review

36. Before a new drug can be tested in humans, the sponsoring company must submit an IND application to the FDA. In many organizations, the shift from the discovery phase to the IND/preclinical stage involves a handoff between scientific discovery teams and specialized staff who assemble preclinical data and engage with the FDA.[46] The IND application compiles data from the preclinical phase (including drug activity and toxicity) and provides information to ensure the drug is reasonably safe to test in humans. The application typically also includes manufacturing information (i.e., composition of the drug, supplier and facility details, quality controls), detailed protocols for the proposed clinical trials, and qualifications of investigators and trial sites.[47] The FDA's primary goal in reviewing IND applications is to ensure the safety of the proposed clinical trials and to "assure that the quality of the scientific evaluation of drugs is adequate to permit an evaluation of the drug's effectiveness and safety."[48]

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43 *Preclinical Research in Drug Development: From Toxicology to Translational Insights*, AMS Biopharma, https://amsbiopharma.com/preclinical-research-drug-development/ (last visited Aug. 12, 2025).

44 *Guidance for Industry - S6 Addendum to Preclinical Safety Evaluation of Biotechnology-Derived Pharmaceuticals*, FDA, https://www.fda.gov/media/78034/download (last visited Aug. 12, 2025).

45 *Investigation New Drug (IND) Application*, FDA, https://www.fda.gov/drugs/types-applications/investigational-new-drug-ind-application (last visited July 31, 2025).

46 *See Going Global: How Working with a CRO Can Benefit Your Clinical Trials*, Novotech CRO, https://novotech-cro.com/blog/going-global-how-working-cro-can-benefit-your-clinical-trials last visited Aug. 14, 2025).

47 *Investigation New Drug (IND) Application*, FDA, https://www.fda.gov/drugs/types-applications/investigational-new-drug-ind-application (last visited July 31, 2025).

48 21 CFR 312.22.

37. During the IND application period, the FDA provides guidance to sponsors on whether the design of a proposed study, including its endpoints and statistical analyses, is likely to support claims related to the drug's safety and efficacy. This input is critical, as it informs whether the study results may ultimately support marketing approval and labeling claims.[49] The FDA communicates its guidance through several mechanisms, including formal meetings with sponsors. These meetings are designed to address time-sensitive issues, review key milestone developments, or discuss other aspects of drug development.[50] In addition, the FDA also communicates with sponsors through "IND Information Requests," which are often triggered by safety reports or protocol amendments. Sponsors must notify the FDA of suspected unexpected serious adverse reactions ("SUSARs") and submit updates to key trial documents, such as the protocol, statistical analysis plan ("SAP"), and informed consent forms.[51] Although these requests may not include recommendations, they can signal areas of regulatory focus for the FDA.

38. The FDA does not formally approve IND applications. Instead, an IND becomes effective 30 days after submission unless the FDA places it on clinical hold.[52] Approximately 9% of IND applications are placed on clinical hold.[53] This relatively low rate reflects the fact that applications are typically submitted only after extensive data collection, internal testing, and regulatory preparation.[54] Thus, achieving IND readiness is an important milestone for early-stage biotech companies, one that only a small fraction of companies can complete.

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[49] *See Best Practices for Communication Between IND Sponsors and FDA During Drug Development, Guidance for Industry and Review Staff*, FDA, 8, https://www.fda.gov/media/94850/download (last visited Aug. 11, 2025).

[50] *See Formal Meetings Between the FDA and Sponsors or Applicants of PDUFA Products Guidance for Industry – Draft Guidance*, FDA, 2-5, https://www.fda.gov/media/172311/download (last visited Aug. 12, 2025).

[51] *Guidance for Industry and Investigators, Safety Reporting Requirements for INDs and BA/BE Studies*, FDA, 8, https://www.fda.gov/media/79394/download (last visited Aug. 11, 2025) ("The sponsor must report in an IND safety report any suspected adverse reaction to study treatment . . . that is both serious and unexpected.").

[52] *Investigational New Drug (IND) Application*, FDA, https://www.fda.gov/drugs/types-applications/investigational-new-drug-ind-application (last visited July 31, 2025).

[53] Kent Amsberry, *Key Trends in IND Applications*, Cardinal Health, https://www.cardinalhealth.com/en/services/manufacturer/biopharmaceutical/drug-development-and-regulatory/resources-for-regulatory-consulting/fda-insights/key-trends-in-ind-applications.html (last visited Aug. 10 2025).

[54] Meg Rivers, *Early Development Challenges in IND Application*, PharmTech, https://info.veristat.com/hubfs/library_all-marketing-assets/PharmaTech_Development_EarlyDevelopment_INDPlanning.pdf (last visited Aug. 12, 2025).

4. Clinical Phase

39. With an IND complete, the company transitions to the *clinical development phase*, which is divided into Phase I, II, and III trials. This phase typically spans 8 years[55] but timelines can vary, and most candidates fail to advance through all phases. Only about 8% of drug candidates that enter clinical trials ultimately receive FDA approval.[56]

40. Phase I trials are the first tests of a new drug in humans. The primary goal is to evaluate safety, determine appropriate dosage, and identify any potential side effects.[57] During Phase I, healthy volunteers or patients are introduced to the new drug to understand the pharmacological interactions in humans.[58] Phase I studies are typically small, with approximately 20 to 100 volunteers,[59] running for several months. To move to Phase II, the drug must be deemed as sufficiently safe in humans, subject to review and approval from the FDA. It is estimated that approximately 70% of drugs that enter Phase I trials move to Phase II.[60]

41. Phase II clinical trials focus on evaluating the efficacy of the drug candidate in patients with the targeted condition, while continuing to monitor for safety and short-term side effects.[61] Phase II studies are usually placebo-controlled or standard-of-care-controlled studies,[62] meaning some patients receive the investigational drug while others receive either a placebo or an existing

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55 *Discovering New Drugs: The Importance of the Discovery Phase in Drug Development*, BioAgilytix, https://www.bioagilytix.com/solutions/phases/discovery-phase-drug-development/ (last visited July 30, 2025).

56 Alexander Schuhmacher et al., *Benchmarking R&D Success Rates of Leading Pharmaceutical Companies: An Empirical Analysis of FDA Approvals (2006-2022)*, Drug Discovery Today, Volume 30, Issue 2, at 2 (Feb. 2025). Estimates for rates of approval vary slightly based on the sample size and time period under study. *See e.g.*, *Time and Success Rate of Pharmaceutical R&D*, Geneva Graduate Institution: Global Health Center, https://www.knowledgeportalia.org/r-d-time-and-success-rate (last visited Aug. 15, 2025).

57 *Toolkit: Phase 1*, NIH, https://toolkit.ncats.nih.gov/glossary/phase-1/ (last visited July 21, 2025).

58 *Small Business Assistance: Frequently Asked Questions on Drug Development and Investigational New Drug Applications*, FDA, https://www.fda.gov/drugs/cder-small-business-industry-assistance-sbia/small-business-assistance-frequently-asked-questions-drug-development-and-investigational-new-drug#Introduction (Last visited Aug. 4 2025); *See also,* 21 CFR 312.21.

59 *Step 3: Clinical Research*, FDA, https://www.fda.gov/patients/drug-development-process/step-3-clinical-research (last visited July 31, 2025).

60 *Id.*

61 21 CFR 312.21; *See also*, "*The FDA's Drug Review Process: Ensuring Drugs Are Safe and Effective*," FDA, https://www.fda.gov/drugs/information-consumers-and-patients-drugs/fdas-drug-review-process-ensuring-drugs-are-safe-and-effective (last visited July 31, 2025).

62 *Id*.

standard treatment.[63] To receive FDA approval, a new drug must either demonstrate superiority over standard-of-care or at minimum, non-inferiority, meaning that it performs comparably while offering other advantages such as lower toxicity, easier administration, or cost-effectiveness.[64] These studies typically include several hundred patients and may last up to two years.[65] It is estimated that approximately one-third of drugs that enter Phase II trials may progress to Phase III.[66]

42. Phase III trials are designed to confirm the drug's efficacy and safety in broader populations. These trials compare the investigational drug to existing standard-of-care treatments, as well as assess longer-term side effects and treatment benefits.[67] Phase III studies typically take one to four years and include several hundred to several thousand patients with the targeted disease or condition.[68]

43. If clinical trials succeed, the company moves to the regulatory review and approval phase, submitting a New Drug Application ("NDA") for a drug or Biologic Licensing Application ("BLA") for a biologic.[69,70] NDA/BLA application includes all data from preclinical and clinical

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63 *Id*.

64 *Non-Inferiority Clinical Trials to Establish Effectiveness, Guidance for Industry*, FDA, 2, https://www.fda.gov/regulatory-information/search-fda-guidance-documents/non-inferiority-clinical-trials (last visited Aug. 13, 2025).

65 21 CFR 312.21; *See also*, *Step 3: Clinical Research*, FDA, https://www.fda.gov/patients/drug-development-process/step-3-clinical-research (last visited July 31, 2025).

66 *Step 3: Clinical Research*, FDA, https://www.fda.gov/patients/drug-development-process/step-3-clinical-research (last visited July 31, 2025).

67 *Id.*; "*The FDA's Drug Review Process: Ensuring Drugs Are Safe and Effective*," FDA, https://www.fda.gov/drugs/information-consumers-and-patients-drugs/fdas-drug-review-process-ensuring-drugs-are-safe-and-effective (last visited July 31, 2025; *Phase III Clinical Trial*, NIH – National Cancer Institute, https://www.cancer.gov/publications/dictionaries/cancer-terms/def/phase-iii-clinical-trial (last visited Aug 1. 2025).

68 *Step 3: Clinical Research*, FDA, https://www.fda.gov/patients/drug-development-process/step-3-clinical-research (last visited July 31, 2025).

69 *See New Drug Application (NDA)*, FDA, https://www.fda.gov/drugs/types-applications/new-drug-application-nda (last visited Aug. 1, 2025); *See also, Biologics License Application (BLA) Process*, FDA, https://www.fda.gov/vaccines-blood-biologics/development-approval-process-cber/biologics-license-applications-bla-process-cber (last visited Aug. 1 2025).

70 While most drugs are chemically synthesized, a biologic is a medical product derived from natural sources, and includes complex therapies like vaccines, gene and cell therapies, blood components, and recombinant proteins. *See What are 'Biologics' Questions and Answers*, FDA, https://www.fda.gov/about-fda/center-biologics-evaluation-and-research-cber/what-are-biologics-questions-and-answers (last visited Aug. 1, 2025).

trials, along with information about the medicine's manufacturing, labeling, and proposed use.[71] The average time from an NDA/BLA application to FDA approval is approximately 16 months.[72]

44. Clinical trials are capital-intensive, costing tens of millions of dollars (or more).[73] Companies typically require significant follow-on financing, strategic partnerships, or public-market access to fund operations. Achieving key milestones, such as completion of Phase I, II, and III trials and FDA approval, play a central role in a biotech company's ability to raise additional financing.[74]

5. Commercialization Phase

45. In the commercialization phase, the company prepares for market launch. This includes scaling up manufacturing, establishing distribution channels, and developing or partnering to gain access to sales and marketing infrastructure to bring the drug to market. The majority of biotech firms are eventually acquired by big pharmaceutical companies with established expertise in product launch and commercialization, with the remaining minority choosing to remain independent and grow into fully integrated commercial entities.[75]

C. THE RISKS OF VENTURE CAPITAL BIOTECH INVESTING

46. The biotech industry is characterized by extremely high rates of failure. The vast majority of drug candidates and the companies that develop them ultimately fail, scientifically, financially, or both. Over 90% of clinical drug candidates that enter clinical trials fail to make it through the FDA approval process,[76] and preclinical candidates face even steeper odds.[77] Most healthcare biotech startups burn through tens or hundreds of millions of dollars with no commercial product

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[71] *New Drug Application (NDA)*, FDA, https://www.fda.gov/drugs/types-applications/new-drug-application-nda (last visited Aug. 1, 2025).

[72] *See* Joshua Chao, *The Biotech Company Lifecycle,* PitchBook, 5 (2020).

[73] *See* Joshua Chao, *The Biotech Company Lifecycle,* PitchBook, 4 (2020).

[74] See Joshua Chao, *The Biotech Company Lifecycle,* PitchBook, 5 (2020).

[75] *Early Stage Biotech Company Lifecycle*, Next Investors, https://nextinvestors.com/articles/early-stage-biotech-company-lifecycle/ (last visited Aug. 4, 2025).

[76] Alexander Schuhmacher et al., *Benchmarking R&D Success Rates of Leading Pharmaceutical Companies: An Empirical Analysis of FDA Approvals (2006-2022)*, Drug Discovery Today, Volume 30, Issue 2, at 2 (2025).

[77] *See generally* Duxin Sun et al., *Why 90% of Clinical Drug Development Fails and How to Improve It*, Acta Pharmaceutica Sinica B, Volume 12, Issue 7, 3049 (2022).

to show for it. A widely used term in the biotech industry is the so-called "valley of death," the gap between a promising scientific discovery and the point at which it becomes commercially viable enough to attract significant investment and reach FDA approval.[78] Many drug candidates stall in this gap due to the cost, complexity, and risk associated with advancing through preclinical and early clinical phases.[79] This backdrop makes biotech one of the most capital-intensive and high-risk sectors in the economy.

47. The unique dynamics of this industry have led to the rise of venture capital as the dominant source of funding for biotech start-ups, especially in the early stages. [80] Drug discovery and development can take 10-15 years[81] and typically costs hundreds of millions or even billions of dollars, for each new drug. [82] Along this long process, biotech companies must try to secure several rounds of funding to progress from early discovery to clinical trials and, ultimately, commercialization. Across all phases, these companies, and thus, their investors, face a uniquely high-risk environment, underpinned by scientific risk, regulatory risk, and a highly competitive landscape, all of which contribute to the high failure rate of the industry.

48. To understand the unique investment risk in biotech, it's necessary to unpack the primary sources of failure, starting with science itself. Despite major advances in biomedical research, the

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[78] *See, for example*, Nao J. Gamo et al., "Valley of death: A proposal to build a 'translational bridge' for the next generation," *Neuroscience Research*, 115 (February 2017): 1–4, available at: https://www.sciencedirect.com/science/article/abs/pii/S0168010216302474; *Traversing the valley of death*, Nature Reviews Bioengineering, 1, 875 (2023); Christopher J. Calhoun, *Escaping the Valley of Death: The Funding Process for Biotechnology Companies*, Medical Product Outsourcing, https://www.mpo-mag.com/escaping-the-valley-of-death-the-funding-process-for-biotechnology-companies/ (last visited Aug. 11, 2025); I AM BIO: *How Biotechs Survive the Valley of Death* (Oct. 17, 2023), podcast summary accessed via https://www.bio.org/podcast/how-biotechs-survive-valley-death.

[79] Christopher J. Calhoun, *Escaping the Valley of Death: The Funding Process for Biotechnology Companies*, Medical Product Outsourcing, https://www.mpo-mag.com/escaping-the-valley-of-death-the-funding-process-for-biotechnology-companies/ (last visited Aug. 11, 2025).

[80] It is estimated that venture capital investors account for 65%-70% of total financing in biotech and pharmaceutical financing deals; *see* Marley Brocker, *Biotechnology in the US*, IBISWorld, Life Sciences Report OD4022, 15 (2025); *See* also, Joshua Chao, *The Biotech Company Lifecycle,* PitchBook, 8 (2020).

[81] Duxin Sun et al., *Why 90% of Clinical Drug Development Fails and How to Improve It*, Acta Pharmaceutica Sinica B, Volume 12, Issue 7, 3049 (2022).

[82] One study estimated that developing a new drug costs $2.9 billion (in 2013 dollars), a figure that represents a risk-adjusted, capitalized estimate incorporating i) ~$1.4 billion in direct R&D expenses (out-of-pocket), ii) ~$1.16 billion in time (opportunity) costs, and iii) an additional ~$312 million in post-approval development. *See Tufts Center for the Study of Drug Development - Cost of Developing New Drugs*, Applied Clinical Trials, https://www.appliedclinicaltrialsonline.com/view/tufts-center-study-drug-development-cost-developing-new-drugs (last visited Aug. 12, 2025).

vast majority of drug candidates fail somewhere between discovery and regulatory approval. A company may spend years validating a scientific hypothesis, only to discover in preclinical or clinical trials that the drug is ineffective or unsafe. Advancing a drug candidate to a Phase I trial is itself a major milestone, yet over 90% of drugs that enter clinical trials ultimately fail during Phase I, II, or III testing.[83] When failures during preclinical development are considered, the overall attrition rate in drug development is even higher.[84] Compounding the scientific failure risk is the capital intensity of each development stage, often costing tens to hundreds of millions of dollars. Failures at any stage often result in a total loss for investors. This combination of high cost and high failure rates means that even a portfolio with several promising companies may not deliver meaningful returns, unless a few exceptional successes offset the losses.

49. In addition, regulatory setbacks can occur at various points, during an IND application review, at the start of clinical trials, or even after FDA approval in response to emerging safety concerns.[85] Any delay or setback can be costly, shifting the development timeline and eroding investor confidence and willingness to continue to fund. Even after successful clinical trials, uncertainty remains around the scope of the FDA's approval. The FDA may grant only a narrow label, limiting the approved use to a specific subset of patients or conditions, rather than the broader indication as desired by the drug manufacturer.[86] Additionally, the FDA influences how a drug may be marketed, including imposing strict limitations on promotional language and approved claims, or requiring disclosures of warnings, precautions, and contraindications into the drug's labeling.[87] Such constraints and requirements can significantly influence physician adoption and

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[83] Alexander Schuhmacher et al., *Benchmarking R&D Success Rates of Leading Pharmaceutical Companies: An Empirical Analysis of FDA Approvals (2006-2022)*, Drug Discovery Today, Volume 30, Issue 2, at 2 (2025).

[84] Duxin Sun et al., *Why 90% of Clinical Drug Development Fails and How to Improve It*, Acta Pharmaceutica Sinica B, Volume 12, Issue 7, 3049 (2022).

[85] *See* Joshua Chao, *The Biotech Company Lifecycle,* PitchBook, 4-5 (2020).

[86] *Indications and Usage Section of Labeling for Human Prescription Drug and Biological Products — Content and Format, Guidance for Industry, Draft Guidance*, FDA, 3, https://www.fda.gov/files/drugs/published/Indications-and-Usage-Section-of-Labeling-for-Human-Prescription-Drug-and-Biological-Products-%E2%80%94-Content-and-Format-Guidance-for-Industry.pdf (last visited Aug. 4, 2025) ("In some cases, FDA's expert reviewers may fairly and responsibly conclude, based on their scientific training and experience, that the available evidence [from the clinical trials] supports approval of an indication that is broader or narrower in scope than the precise population studied.").

[87] *Medical Product Communications That are Consistent With the FDA-Required Labeling Questions and Answers, Guidance for Industry*, FDA, 2, https://www.fda.gov/media/133619/download (last visited Aug. 4, 2025) ("After FDA approves or clears a medical product, the FDA-required labeling sets forth the conditions of

market uptake. Collectively, regulatory risks can significantly reduce the drug's revenue potential and diminish expected returns on investment for venture capital investors.

50. Biotech investors also face a highly competitive market landscape, especially in therapeutic areas dominated by large pharmaceutical companies. These established players benefit from deep regulatory experience, robust clinical infrastructure, and longstanding relationships with payers and providers, giving them a structural advantage over startups. While early-stage biotech companies can still find opportunities in areas of unmet medical need, they often compete in crowded markets where the large established companies already control significant resources, commercial channels, and market share.[88] This dynamic creates barriers to entry for emerging firms and can limit the likelihood of commercial success. For venture capital investors, these commercial headwinds add another layer of uncertainty to an already volatile and capital-intensive investment environment.

51. Beside scientific, regulatory, and commercial uncertainty, investors must also navigate other risks such as managerial execution risk, shifts in market sentiment, and intellectual property challenges. Given these layers of uncertainty, many biotech companies may be unable to secure continued funding at critical junctures. That risk is especially pronounced for early-stage or preclinical firms that have no near-term revenue prospects and rely entirely on investor capital to sustain operations.

52. Investors must therefore be highly selective, often choosing to concentrate follow-on investments in the most promising programs while cutting losses and allowing others to wind down. This process of *capital reallocation* is central to portfolio management in biotech venture investing. As discussed in *Dahiya and Ray* (2012), staged financing supports this reallocation by allowing capital to be committed incrementally, contingent on achieving predefined milestones, and preserving the option to discontinue investment and redeploy capital elsewhere if progress falls

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use under which the product has been shown to meet the relevant standard for marketing. This labeling also provides directions and information on how to use the product safely and effectively under those conditions."). *See also*, 21 CFR 201.57.

88 Marley Brocker, *Biotechnology in the US*, IBISWorld, Life Sciences Report OD4022, 11, 21 (2025).

short.[89] Winding down or writing off programs that fail to set and achieve predefined milestones is an important part of successful biotech investing, requiring the recognition of failure as decisively as the pursuit of potential. This reflects a necessary investment discipline: despite prior investments or early enthusiasm, additional funding is typically reserved for programs that meet predefined scientific or operational milestones and continue to align with the investor's risk-reward expectations.[90] The staged financing structure allows venture investors to preserve flexibility, allocating greater resources to companies that demonstrate early success while limiting exposure to those that do not.[91] Companies that fall behind, due to missed milestones, emerging safety concerns, or shifting strategic focus, may not receive follow-on funding, as investors prioritize stronger performers. In this way, even within high-risk portfolios, venture capitalists seek to optimize capital efficiency and increase the probability of overall portfolio success.

D. RISK MITIGATION MECHANISMS FROM AN INVESTOR'S PERSPECTIVE

53. Given the very high failure rate and multitude of risks, success in the biotech sector is not solely a function of identifying promising science. It depends especially on having robust mechanisms

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89 Sandeep Dahiya and Korok Ray, *Staged investments in entrepreneurial financing*, Journal of Corporate Finance 18, 1193, 1194 (2012) ("Both the VC and the entrepreneur have outside options in each stage. For example, the VC can fund other ventures and the entrepreneur can work on other projects. Staging investments gives the VC the option to discontinue the project, at which point both parties collect their respective outside options. . . . [T]he VC will set a milestone after the first stage, and if the project's output clears this milestone, the VC knows the project is sufficiently successful and therefore, invests more.").

90 Lenos Trigeorgis, *Real Options and Interactions with Financial Flexibility*," Financial Management 22(3), 202, 221 (1993) ("[T]he value of various types of operating options embedded in capital investments, both for enhancing upside potential (e.g., through options to defer or expand), as well as for reducing downside risk (e.g., via options to abandon for salvage value or switch use, and to default on staged planned outlays)" and "The option to actively revalue the terms of a financing deal as operating project uncertainties get resolved over successive stages is clearly valuable, compared to a passive alternative where the financing terms are irrevocably committed to from the very beginning under less complete information.").

91 Sandeep Dahiya and Korok Ray, *Staged investments in entrepreneurial financing*, Journal of Corporate Finance 18, 1193, 1194, 1999 (2012) ("The primary implication from staging investments is that it skews the efficient allocation of resources towards the later stages. The VC deliberately withholds investments in the early stages precisely because of the uncertainty from the early stage." and "The VC invests more in the later stage because the new venture is "in the running" to becoming highly successful. [It] is inefficient for the VC to dump too many resources into a horse that won't finish the race. . . . [G]ood outside opportunities allow VCs to withhold early round investments relative to later round investments. . . . The outside options capture the opportunity cost of investment, and therefore, measure the tolerance for poor projects. With high outside options, this tolerance is low, and both parties invest less in the first stage.").

to assess progress, manage uncertainty, and allocate (and re-allocate) capital selectively. To mitigate risk, biotech investors typically rely on several mechanisms embedded into the funding and oversight process. These include well-articulated investment theses, clear budgeting frameworks, milestone-based financing models, and formalized progress reporting.[92] Collectively, these tools enable investors to evaluate the potential of each opportunity at the outset, as well as to monitor whether companies are delivering on key milestones before committing additional capital.

54. In a typical venture capital firm (a "VC" firm), the general partner ("GP") of the fund (which often includes one or more general partners and a team of other investment professionals) is responsible for making certain investment decisions, such as identifying potential investments, deploying the capital, and overseeing the portfolio companies' performance and progress. Because the GP's fiduciary duties are to its LPs, the GP performs these functions primarily to benefit the LPs and meet their expectations for returns.[93] In doing so, the GP should be tracking the portfolio companies' performance and milestones, and updating investment memoranda or budgets as necessary and where warranted, especially where delays or other material changes arise in the progress of early-stage companies.[94] In some cases, the GP may determine that,

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[92] Craig Shimasaki, *The Business of Bioscience, What Goes into Making a Biotechnology Product* 170 (Springer) (2009) ("The leader must always maintain the organization's intensity toward reaching the next value-increasing and risk-mitigating milestone, if they hope to have a successful biotechnology company.").

[93] Craig Shimasaki, *Biotechnology Entrepreneurship: Starting, Managing, and Leading Biotech Companies* 275, 276, 293, 295 (Waltham, MA: Academic Press) (2014) ("Venture capital funds are managed by professionals called general partners (GP) and the money in these funds typically comes from institutions and high-net worth individuals and even other funds. Investors in a venture capital fund are called limited partners (LP)") ("The general partners have a fiduciary responsibility to their limited partners and are supported through a management fee from the fund") ("General partners must also answer and report to their limited partners, raise capital for their fund, find new investments, and manage their existing companies") ("A venture capital firm [GP] receives its funds from Limited Partners to deploy into their portfolio companies, and the VC fund managers (or General Partners) are accountable to the Limited Partners").

[94] Craig Shimasaki, *Biotechnology Entrepreneurship: Starting, Managing, and Leading Biotech Companies* 275, 293, 295 (Waltham, MA: Academic Press) (2014) ("[T]he venture capital firm [GP] receives money from its limited partners for a defined period of time. The limited partners have an expectation for return within that timeframe. The venture capital firm [GP] must then identify a portfolio of companies in which to invest with the hopes that these companies each return a significant profit before the fund life cycle is over. All companies are not successful nor do they all bring extraordinary returns to their investors, so the VCs [GP] must build into their plan an assumption of the number of failures while still meeting their investors' expectations for returns. There is pressure on the VC firm [GP] to have their portfolio companies perform and meet expectations. Fund managers that are not successful at this may not be able to raise a follow-on fund."), p. 293 ("Most VCs [GP] are extremely active in their portfolio companies and they integrate themselves in their company's strategic decisions, and even in certain operational activities as needed"), and p. 295 ("They [GP] typically sit on

rather than revising such plans, it may be more appropriate to discontinue additional funding commitments and allocate the remaining available funding to other, more promising, opportunities.[95]

1. The Investment Thesis

55. At the outset of a biotech investment, VC firms, often in collaboration with the underlying project teams, develop a well-defined investment thesis to articulate why a particular company merits financing. To attract funding, the investment thesis must convey that the company has a credible path to major inflection points, such as a development candidate nomination or an IND application filing, and that its scientific approach is meaningfully differentiated from potential alternatives and capable of generating return on investment.[96]

56. In making investment decisions, the VCs assess several key factors, including the scientific soundness of the technology, the experience and composition of the management team, the therapeutic indication and degree of unmet medical need, and the broader regulatory and competitive landscape.[97] VCs are typically provided with an initial investment memorandum, which documents the rationale for investment, outlines potential risks and proposed mitigants, and defines expectations around capital requirements and milestone progression. While the investment thesis may evolve in response to new data, the investment memorandum serves as a foundational reference for the initial investment decision and provides an anchor for follow-on funding discussions.

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multiple boards of their portfolio companies, each of which have needs and problems of their own that require their help. VCs [GP] also have Limited Partners to report to and communicate the progress of their portfolio and their fund's returns."); *See also*, *What is a General Partner (GP)? Breaking Down the Most Coveted Position in Investing*, Confluence.VC, https://confluence.vc/general-partner/ (last visited Aug. 12, 2025).

95 Sandeep Dahiya and Korok Ray, *Staged investments in entrepreneurial financing*, Journal of Corporate Finance 18, 1193, 1197 (2012) ("[T]he VC sets some target (or milestone) $q*$ after the first stage, and advances the entrepreneur only if $q1>q*$." "Under staged financing, the investor sorts projects into two groups: stay or quit. The target $q*$ conducts the sorting, in that it allows only entrepreneurs with high output to proceed.").

96 Nicholas Frame, Michael Casasanta, and Oded Ben-Joseph, *The winding journey of biotech capital raising: deciphering the jargon*, Trends in Biotechnology, 41(10), 1213, 1214 (2023).

97 *Biotechnology venture capital: The Art of Due Diligence: Evaluating Biotech Ventures*, FasterCapital, https://fastercapital.com/content/Biotechnology-venture-capital--The-Art-of-Due-Diligence--Evaluating-Biotech-Ventures.html (last visited Aug. 4, 2025).

2. Proposed Budgets within an Investment Thesis

57. Prior to an initial investment, a biotech start-up and the VC firm typically align on a proposed budget. The budget, often included in or presented in conjunction with the investment memorandum, serves as a detailed financial roadmap that outlines the anticipated capital needs over a defined development timeline. The initial budget for an early-stage project often extends to a major inflection point, such as an IND application submission. The budget is usually structured into discrete tranches. Each tranche is tied to a specific set of scientific or operational milestones. Funding is released incrementally; a new tranche is unlocked only upon the successful completion of the corresponding milestones.

58. Funding tranches and corresponding milestones are established at the outset, providing a strategic outline that guides the start-up's scientific decision-making and the VC's expectations, ensuring that the agreed-upon strategy continues to anchor both operational execution and investment oversight. This tranche-based structure is driven by the distinct characteristics of biotech start-ups. Unlike start-ups in other sectors, which may pivot and shift strategy quickly, biotech companies typically must demonstrate upfront how capital will be allocated across a linear and tightly sequenced path, from initial screening, to lead identification and optimization, preclinical testing and IND-enabling studies, and IND application submission.[98] Additionally, because early-stage biotech companies operate with negative cash flow and no revenue over extended periods of time, the budget is an essential tool for VCs to evaluate burn rate and capital efficiency. Biotech startups are long-term endeavors with significant financing needs, relying on financing structured around milestone progression rather than early monetization, as regulatory sequencing and clinical validation drive their development paths.[99]

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[98] Craig Shimasaki, *Biotechnology Entrepreneurship: Starting, Managing, and Leading Biotech Companies* 46 (Waltham, MA: Academic Press) (2014) ("Biotechnology endeavors come with unique challenges other entrepreneurial endeavors do not face. These include, the need for enormous amounts of money to make incremental product development progress, longer development times, and stiffer regulatory approval requirements in order for products to be commercialized . . . The biotech entrepreneur must have in their mind (and on paper) a good estimate of the total capital required to reach each value-enhancing milestone in order to remain attractive to subsequent investors.").

[99] *See* Joshua Chao, *Biotech Company Lifecycle,* PitchBook, 7 (2020). ("Biotech startups are long-term endeavors with short-term financing needs. These companies share traits with most companies that pursue VC funding, namely, a long pathway to profitability, high burn rates and capital intensity, and the potential for asymmetric returns. Long drug-development cycles align with the illiquid nature and timeline of VC investments, as biotech companies typically need multiple rounds of follow-on financing to advance through clinical trials. This permits VCs to invest at multiple points in the company lifecycle . . . .").

59. Failure to clearly align capital needs with scientific and regulatory milestones can result in funding gaps.[100] If milestones are not met, VCs may choose to pause, renegotiate, or discontinue funding, depending on whether the early results support continuation.[101] This milestone-based capital allocation allows VCs to avoid overcommitting capital to underperforming programs and to concentrate future investment on ventures that demonstrate strong early-stage output.[102]

60. Therefore, each funding tranche serves as a checkpoint—an opportunity for VCs to reassess risk, evaluate progress and commercial potential, and determine whether the company remains on track. This tranche-based financing structure is thus central to biotech venture investing.

3. Proposed Milestones within a Budget

61. The milestones outlined in the investment budget serve as the primary framework for progress evaluation and funding decisions. They offer VCs a mechanism to stage capital deployment and evaluate progress against defined criteria. This is particularly important in an environment where companies remain pre-revenue for years, each stage of development requires increasingly substantial levels of funding, and failure rate is high.

62. For early-stage biotech start-ups, milestones are typically scientific and regulatory in nature, such as the completion of target validation, identification and optimization of a lead compound, nomination of a development candidate, DCN, submission of an IND application, or the initiation of Phase I clinical trials. Within a well-constructed investment thesis, milestones are

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[100] *Why Some Biotech Startups Struggle to Scale*, Excedr, https://www.excedr.com/resources/why-some-biotech-startups-struggle-to-scale? (last visited Aug. 4, 2025).

[101] Sandeep Dahiya and Korok Ray, *Staged investments in entrepreneurial financing*, Journal of Corporate Finance 18, 1193, 1197, 1210 (2012) ("[T]he VC sets some target (or milestone) $q*$ after the first stage, and advances the entrepreneur only if $q1>q*$". "Under staged financing, the investor sorts projects into two groups: stay or quit. The target $q*$ conducts the sorting, in that it allows only entrepreneurs with high output to proceed") ("Staged financing creates the possibility of termination after the early stage, and this introduces uncertainty into the early stage. This uncertainty decreases the expected surplus in stage one, and therefore, it is efficient to invest less in stage one. Once the entrepreneur has proven his first stage output to be high ($q1>q*$), this uncertainty vanishes, and expected surplus rises. As a result of this, it is efficient to invest more in the later stage.").

[102] Sandeep Dahiya and Korok Ray, *Staged investments in entrepreneurial financing*, Journal of Corporate Finance 18, 1193, 1197 (2012) ("[M]ilestones separate early round financing (series A) from later round financing (series B). New ventures must meet certain targets . . . . These targets constitute the milestone $q*$." and "In practice, this $q*$ represents the milestone in between rounds of venture financing. If the quality of the project clears this milestone, then the entrepreneur qualifies for the next round of funds.").

expected to be clearly defined, achievable within the tranche budget, and tied to measurable results at key decision points. Importantly, these milestones are designed to progress the company toward a valuation inflection point, which is ultimately what VCs are looking for – companies that are advancing toward such value-driving milestones.

63. Milestones then function both as internal operational targets for the company and as external performance benchmarks for VCs. If a company meets its milestones as planned, it generally triggers release of the next tranche of committed capital. If milestones are delayed, or missed altogether, it might cause the VCs to pause additional funding, make inquiries, renegotiate terms, or discontinue support. This stage- and milestones-based financing approach allows VCs to exercise risk control and allocate capital more efficiently based on how the science and execution unfold.[103] This discipline is particularly essential in preclinical and early clinical stages. At each funding stage, VCs have an opportunity to reassess whether continued investment is warranted. If new information indicates that the program is unlikely to succeed, stopping further funding can prevent additional losses and potentially allow capital to be redirected to stronger opportunities.[104]

64. Given the high failure rate in early-stage biotech companies, it is both expected and reasonable for VCs to fund a portfolio of such companies with the understanding that only a small number will ultimately reach key development milestones, and even fewer will achieve commercial success. This investment model recognizes that early scientific bets carry significant uncertainty and that many programs will stall or unwind before reaching a major inflection point. Milestones provide the structure through which VCs respond to this uncertainty – not only to evaluate individual company progress, but also to optimize capital deployment across the portfolio (and across different sets of investment opportunities). As companies advance, VCs can shift from a probabilistic portfolio approach to evidence-based decision-making – reassessing risk, allocating

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[103] Rachelle Kuramoto, *How do VCs Use the Tranche Approach to Balance Risks, Relationships, and Rewards?*, BIP Ventures, https://www.bipventures.vc/news/how-do-vcs-use-the-tranche-approach-to-balance-risks-relationships-and-rewards? (last visited Aug. 4, 2025).

[104] Lenos Trigeorgis, *Real Options and Interactions with Financial Flexibility*," Financial Management 22(3) 202, 204, 211 (1993) ("Staging investment as a series of outlays creates the option to abandon the enterprise in midstream if new information is unfavorable. Each stage can be viewed as an option on the value of subsequent stages, and valued as a compound option.") ("This option [the option to default] is valuable in all R&D intensive industries, especially pharmaceuticals . . . .").

follow-on capital to the highest-performing programs, and discontinuing investment in those that fail to meet defined criteria.

65. Because milestones signal progress not just internally but to future investors, their design and credibility carry downstream financing implications. Unrealistic or missed Series A milestones can raise concerns among investors and make it difficult to secure Series B funding, particularly in a market increasingly focused on clinical-stage investments.[105]

66. In sum, milestones are not simply technical hurdles, nor are they estimated notions of what progress might be attainable—they are central to strategic planning. Milestones are essential tools for evaluating performance and making staged, evidence-based investment decisions across the biotech lifecycle. As later-stage financing has become increasingly selective, startups are under growing pressure to demonstrate stronger clinical and financial milestones to remain competitive in a tightening funding environment.[106]

4. Investment Progress Updates

67. To support the milestone-based funding approach, companies are typically required to provide regular progress updates to VCs. These updates typically take the form of written quarterly digests and, sometimes, annual or semiannual presentations by the project teams.[107] Their

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[105] *Bridging The Real Gap in Biotech Venture Funding: the Elusive Series B*, LifeSciVC https://lifescivc.com/2012/02/bridging-the-real-gap-in-biotech-venture-funding-the-elusive-series-b (last visited Aug. 11, 2025) ("Set realistic milestones in the Series A and hit them. . . . Most Series A proposals are optimistic, which is fine, but an unrealistically naïve set of goals is a flag about the team's credibility when the Series B pitch also says 24-months to an IND."); *see also*, Gwendolyn Wu, *Biotech Startups Face a 'Series A Cliff' as Venture Funding Slows*, BioPharma Dive, https://www.biopharmadive.com/news/biotech-startups-venture-series-a-cliff-funding/645883/ (last visited Aug. 11, 2025) ("A lot of those companies are really early-stage platform companies where they have this really interesting science, good investors and a good team around it, but they don't have anything in the clinic yet, . . . [a]nd Series B investors seem to be focused on that.").

[106] *2025 Trends in Biotech Venture Capital Funding*, Excedr, https://www.excedr.com/blog/trends-in-biotech-venture-capital-funding (last visited Aug. 4, 2025).

[107] *How to Manage Investor Relations for Biotech Startups*," Bplan AI, https://bplan.ai/blogs/funding-questions/startups-manage-investor-relations-development-biotech-solutions-funding (last visited Aug. 14, 2025) ("Regular communication channels, such as quarterly reports, investor meetings, and email updates, can help keep investors informed and engaged . . . . Consistent communication is key when managing investor relations. Establishing a timeline for regular updates and milestones can help keep investors informed and engaged throughout the development process . . . . Quarterly reports can include more in-depth analysis of financial performance, market trends, and strategic partnerships. This is also a good time to update investors on any regulatory approvals or clinical trial results.").

purpose is to keep the VCs informed of ongoing technical progress, resource utilization, and changes to the development plan. Progress updates are the primary communication channel between biotech companies and their VCs.

68. From the VC's perspective, quarterly updates serve as a critical oversight mechanism and play an important role in informing follow-on financing decisions at every stage of development. They provide visibility into the scientific progress, cash burn, key risks, and strategic decision points. Clear communication enables VCs to assess whether a company remains on track, supports informed follow-on funding decisions, and helps build the trust needed to navigate a high-uncertainty, capital-intensive development process.[108] Progress updates also allow VCs to benchmark performance across companies. In a sector where binary outcomes are common, these regular touchpoints give VCs the visibility they need to exercise capital discipline. Companies that consistently meet or exceed their milestones may earn investor confidence and additional funding, while others may be wound down.

69. Together, investment theses, budgeting frameworks, milestone-driven financing, and structured progress updates form a cohesive risk management system that enables VCs to navigate scientific and operational uncertainty and allocate capital selectively, ensuring that capital is deployed in step with the company's progress toward key milestones.

V. RIGMORA'S DECISION NOT TO FUND INVESTMENT TRANCHES CONDITIONED ON MILESTONES THAT THE EARLY-STAGE COMPANIES DID NOT ACHIEVE IS REASONABLE

70. In this section, I assess the performance of seven early-stage biotech companies in which ATP invested Rigmora's capital: Aethon Therapeutics, Apertor Pharmaceuticals, Deep Apple Therapeutics, EverCrisp Biosciences, Initial Therapeutics, Marlinspike Therapeutics, and Red Queen Therapeutics.

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[108] *Governance Best Practices for Early-Stage Biotechnology Companies*, LEADAFI, https://leadafi.com/leadafi-councils-post/governance-best-practices-for-early-stage-biotechnology-companies/ (last visited Aug. 6, 2025) ("Early-stage biotech companies should establish clear channels for internal and external communication. This includes regular updates on research progress, financial status, and strategic decisions. Transparency in these areas helps manage expectations and fosters trust with investors and partners.").

71. As discussed above in Section IV.D, milestone-based financing is the standard mechanism investors use to evaluate performance and allocate follow-on capital. In the analysis that follows, I evaluate whether each of the seven companies met the development milestones outlined in their investment memoranda. I rely primarily on the quarterly digests ATP provided to Rigmora, to assess the companies' progress against their proposed development timeline.[109] This analysis informs my opinion on whether ATP's requests for additional capital were consistent with the milestone-based investment discipline typically expected in this sector. As detailed below, in light of each of the seven early-stage companies' missed milestones, the significant amounts of capital already deployed, and the amounts of capital that would be needed to continue to pursue their programs, I conclude that Rigmora's decision to decline to pay further capital calls was reasonable and aligned with established norms in biotech investing.

A. AETHON THERAPEUTICS

72. Aethon Therapeutics ("Aethon") was founded in 2022 and is headquartered in Long Island City, New York. The company is a private biotech firm backed by the Fund and NYU Langone Health.[110] According to Aethon, it is working to eliminate drug-resistant cancer cells through its HapImmune platform, which combines two common cancer treatments: targeted therapy and immunotherapy.[111] First, the HapImmune platform seeks to mark cancer cells in a way the immune system can recognize. Then, specialized immune cells would seek out and destroy these

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[109] The quarterly digests provide commentary on the activities of each ATP portfolio company during each quarter. In Appendix C, I have reproduced verbatim the commentary contained in the quarterly digests for each company and quarter. I have been provided quarterly digests through Q1 2025 and thus all of my assessments of progress relative to milestones and capital calls are primarily through the end of Q1 2025.

[110] *Aethon Therapeutics*, CB Insights, https://www.cbinsights.com/company/aethon-therapeutics (last visited Aug. 4, 2025).

[111] *HapImmune™ Platform*, Aethon Therapeutics, https://aethontx.com/hapimmune-platform/ (last visited Aug. 4, 2025) ("Aethon's HapImmune™ platform: The convergence of targeted and immune therapy."). Targeted therapy is a type of precision medicine that "targets proteins that control how cancer cells grow, divide, and spread."; *Targeted Therapy to Treat Cancer*, NIH – National Cancer Institute, https://www.cancer.gov/about-cancer/treatment/types/targeted-therapies (last visited Aug. 4, 2025).

Immunotherapy uses the patient's own immune system to fight cancer. Immunotherapy can boost or change how the immune system works so it can find and attack cancer cells. *See Immunotherapy*, American Cancer Society, https://www.cancer.org/cancer/managing-cancer/treatment-types/immunotherapy.html (last visited Aug. 4, 2025).

marked targets.[112] Aethon aims for these steps to collectively deliver long-lasting and effective cancer treatments.[113]

73. The Fund began investing in Aethon on December 12, 2022, with an initial budget of $30 million (including $5 million from other investors) to be deployed in five tranches over approximately three years, as outlined in the 2022 investment memorandum (the "Aethon 2022 Investment Memorandum").[114] From Q4 2022 through Q1 2025, the Fund invested $17 million, fully drawing tranches 1 through 3 and more than half of tranche 4.[115] Yet, Aethon has not completed all milestones envisioned to release tranche 2 and tranche 3 funds, nor has it made meaningful progress toward those associated with the release of tranche 4 funds. In effect, the company has drawn a significant portion of its allocated capital without meeting the milestones tied to that funding. On May 30, 2025, ATP called an additional $5 million of capital from Rigmora, which I understand may not have been paid but would have brought the total investment from the Fund to $22 million, pushing Aethon into tranche 5.[116] Figure 5 summarizes the budget proposed in the Aethon 2022 Investment Memorandum, the associated milestones, and the company's progress to date.

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112 *See HapImmune™ Platform*, Aethon Therapeutics, https://aethontx.com/hapimmune-platform/ (last visited Aug. 4, 2025).

113 *See Breakthrough Platform Unifies Targeted & Immune Therapies*, NYU Langone Health: Physicial Focus, https://physicianfocus.nyulangone.org/breakthrough-platform-unifies-targeted-immune-therapies/ (last visited Aug. 4, 2025) ("Dr. Neel: As I mentioned, some intracellular oncoproteins can be inhibited with targeted therapy, but responses are not durable. On the other hand, immune therapies can be curative, but most oncogene-driven tumors are unresponsive to these treatments. This new platform, HapImmune, creates targetable neoantigens by design, unifying targeted and immune therapy treatment approaches.").

114 RIGMORA00000529, at -548, Aethon Investment Memorandum.

115 ATP_00004667, at -676, ATP Quarterly Digest, First Quarter 2025.

116 ATP_00003890, May 30, 2025 Aethon Capital Call.

FIGURE 5: AETHON THERAPEUTICS MILESTONE COMPLETION

	Milestones (as per Investment Memorandum) [A]	Expected Completion [B]	Actual Completion [C]	Status of Milestone [D]
	Tranche 1 ($6 million; ATP contribution $5 million)			
[1]	Initial close			Completed
	Tranche 2 ($5 million; ATP contribution $4.17 million, cumulative ATP $9.17 million)			
[2]	Discovery and development of a broad range of antibody sequences to covalent peptide conjugate for Ras G12C (Amgen and Mirati), EGFR, BTK.	Q3 2023	Q1 2023	Completed
[3]	Recruitment of Head of Technology, Head of Proteomics and Immunologist with head count of up to 7FTEs	Q3 2023	Q2 2023	Completed
[4]	In vivo proof-of-concept	Q3 2023	Q4 2023	Completed
[5]	Establishing immuno-peptidomics	Q3 2023	Q3 2024	Completed late
[6]	Establish Aethon in Long Island City, NY	Q3 2023	Q2 2023	Completed
[7]	Identifying lead antibody format for candidate nomination	Q3 2023	Q2 2023	Completed
[8]	Complete CSO and CEO appointments	Q3 2023		Incomplete, significantly delayed
	Tranche 3 ($6 million; ATP contribution $5 million, cumulative ATP $14.17 million)			
[9]	Development candidate nomination	Q3 2024		Incomplete, significantly delayed
[10]	Chemistry, Manufacturing, and Controls (CMC) scale up	Q3 2024	Unclear	Unclear
	Tranche 4 ($6 million; ATP contribution $5 million, cumulative ATP $19.17 million)			
[11]	Pre-IND package for lead candidate with dose range finding toxicity	Q2 2025		Incomplete, significantly delayed
[12]	1-2 further drug development candidates	Q2 2025		Incomplete, significantly delayed
	Tranche 5 ($7 million; ATP contribution $5.83 million, cumulative ATP $25 million)			
[13]	IND for lead program	Q1 2026		Incomplete, significantly delayed
[14]	Raise additional $14-15M for clinical studies	Q1 2026		Incomplete, significantly delayed

Notes and Sources:

"Unclear" means it is not clear if the milestone has been reached based on the quarterly digests.

"Incomplete" means not met as of Q1 2025.

"Completed late" means completed more than one quarter after the expected completion of the milestone.

The Aethon 2022 Investment Memorandum lists milestones [2]-[6] under tranche 1 and states that tranche 1 funds "will support the following milestones." I interpret this to mean that milestones [2]-[6] were expected to be achieved for the release of tranche 2 funds. *See* RIGMORA00000529, at -548, Aethon Investment Memorandum.

[A], [B]: RIGMORA00000529, at -548, Aethon Investment Memorandum.

[C], [D]:

[2]: This is based on the following language in the ATP quarterly digests: "The company is testing 20 formats of bispecific antibodies." *See* Appendix C.1, Q1 2023.

[3]: This is based on the following language in the ATP quarterly digests: "Aethon recruited and onboarded a Chief Technology Officer and six other employees." *See* Appendix C.1, Q2 2023.

[4]: This is based on the following language in the ATP quarterly digests: "Aethon Therapeutics continued the development of its bispecific antibodies to be used in combination with KRAS-targeting cancer therapy, namely the approved agents Lumakras (Amgen) and Krazati (Mirati); these Aethon programs have now moved to in vivo trials and show in vivo proof of concept." *See* Appendix C.1, Q4 2023.

[5]: This is based on the following language in the ATP quarterly digests: "immunopeptidomics experiments will start in November." *See* Appendix C.1, Q3 2024.

[6]: This is based on the following language in the ATP quarterly digests: "Aethon . , . moved to new laboratories in Long Island City, NY." *See* Appendix C.1, Q2 2023.

[7]: This is based on the following language in the ATP quarterly digests: "Aethon progressed its initial project, a novel antibody designed to be used in combination with either of the two currently approved KRAS-targeted therapeutics Lumakras (Amgen) or Krazati (Mirati)." *See* Appendix C.1, Q2 2023.

[8]: *See People*, Aethon, https://aethontx.com/people/ (last visited Aug. 4, 2025); *see also* Paul Da Silva Jardine Dep. Tr. (Aug. 4, 2025), 46:18–22 ("Q. What additional responsibilities did you assume after Dr. Chopra ceased to be a venture partner?; A. Interim CEO of Aethon and interim CEO of Marlinspike."). Based on the Aethon 2022 Investment Memorandum, I interpret the milestone to require appointment of a permanent CEO and CSO. *See* RIGMORA00000529, at -534, Aethon Investment Memorandum.

[9]: As of Q4 2024, the first antibody program was expected to reach a development candidate nomination by Q4 2025. *See* ATP_00119573, ATP Portfolio Tracker, Fourth Quarter 2024.

[10], [11], [13], [14]: There is no indication of a currently anticipated IND application filing or clinical milestones. *See* Appendix C.1; ATP_00119573, ATP Portfolio Tracker, Fourth Quarter 2024.

[12]: As of Q4 2024, the first antibody program was expected to reach a development candidate nomination by Q4 2025, with others expected in 2026. *See* ATP_00119573, ATP Portfolio Tracker, Fourth Quarter 2024.

74. As shown in Figure 5, Aethon is substantially behind on completing core scientific milestones across tranches. The company originally anticipated nominating a development candidate to unlock tranche 3 by Q3 2024.[117] However, from my review, no candidate has been nominated. Testimony from Dr. Jardine, Aethon's CEO, is also consistent with my assessment.[118] As of Q4 2024, ATP's own internal assessments expected to nominate a development candidate by Q3 2025, which, if achieved, would represent a one year delay relative to the initial plan.[119] Because Aethon has not yet nominated a development candidate, it has also not begun work on a Pre-IND package, originally expected by Q2 2025. This means an IND application, initially anticipated by Q1 2026,[120] is likely to be significantly delayed.

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[117] RIGMORA00000529, at -548, Aethon Investment Memorandum.

[118] Paul Da Silva Jardine Dep. Tr. (Aug. 4, 2025), 249:17–250:2 ("Q. Looking at Tranche 3, it says Candidate nomination and CMC scaleup, is the milestone indicator there, correct? . . . Has that been achieved? A. . . . We have not chosen to develop it.").

[119] ATP_00119573, ATP Portfolio Tracker, Fourth Quarter 2024.

[120] RIGMORA00000529, at -548, Aethon Investment Memorandum.

75. In 2024 and early 2025, quarterly digests indicate that Aethon focused primarily on screening efforts in hope of discovering novel bispecific antibodies, working partly in collaboration with Revolution Medicines, via a deal signed in Q1 2024.[121] In parallel, the company actively sought out strategic partnership and /or outside investment from large pharmaceutical companies, holding meetings with Amgen, AstraZeneca, Genentech, Lilly, Novartis, Taiho (of Japan), and others.[122] To date, I understand that none of these meetings have led to an investment, based on my review of quarterly digests as well as the Jardine deposition.[123] Notably, in Q4 2024, Amgen declined to partner on Aethon's main program envisioned in its original investment memorandum, a project focused on developing a combination therapy with the Amgen drug Lumakras (sotorasib).[124] As a result, Aethon appears to have pivoted its focus to other programs.[125] Given Aethon's limited progress towards scientific milestones and the apparent lack of investor interest in the company, I believe it was reasonable for Rigmora to cease funding this investment.

B. APERTOR PHARMACEUTICALS

76. Apertor Pharmaceuticals ("Apertor") was founded in 2020 and is based in Alameda, California.[126] Its objective is to use its synthetic biology technology to combat age-related

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[121] ATP_00005423, at -433, ATP Quarterly Digest, First Quarter 2024.

[122] *See, e.g.*, ATP_00005151, at -160, ATP Quarterly Digest, Third Quarter 2024 ("In the quarter, Aethon advanced its discussions with Amgen regarding potential partnering on the sotorasib program and is currently awaiting feedback.").

[123] Paul Da Silva Jardine Dep. Tr. (Aug. 4, 2025), 253:1-254:4 ("Q. Have you had any meetings with potential third-party investors about investing in Aethon? A. I have. Q. Okay. When was the most recent meeting? A. I believe in March. Q. Okay. Who was that meeting with? A. Taiho . . . Q. And did they express interest in investing in Aethon? A. Did not. Q. Okay. A. They expressed interest -- yes, they did express interest in investing in Aethon, but not at this point. Q. Okay. Are there, to your knowledge, any third-party investors who are actively considering an investment in Aethon? . . . A. I don't know what the third-party people are thinking. We are speaking to several to – a few, on their CDS the next few months, next month or two.").

[124] RIGMORA00000529, at -549, Aethon Investment Memorandum (noting that Program 1 is the sotorasib program); *See also* ATP_00011928, at -937–938, ATP Quarterly Digest, Third Quarter 2022; ATP_00004868, at -877, ATP Quarterly Digest, Fourth Quarter 2024 .

[125] ATP_00004667, at -676, ATP Quarterly Digest, First Quarter 2025.

[126] *Apertor Pharmaceuticals, Inc.*, Biotechnology Innovation Organization, https://convention.bio.org/program-1/apertor-pharmaceuticals-inc (last visited Aug. 4, 2025).

diseases, with a long-term goal of increasing health span by slowing the aging process.[127] Currently, Apertor is seeking to develop new treatments for cancer patients, specifically by developing a type of small molecule called an Apertor Interceptor.[128] The molecules that Apertor seeks to develop would be engineered to selectively disrupt harmful protein interactions within cancer cells.[129] According to Apertor, the Apertor Interceptors would be able to target proteins that are inaccessible to common cancer treatments that induce degradation of disease-causing proteins, while aiming to offer additional benefits such as reduced side effects.[130]

77. The Fund began its investment in Apertor in November 2020.[131] According to the investment memorandum in 2020 (the "Apertor 2020 Investment Memorandum"), the initial $50 million budget was structured around five funding tranches, with each tranche contingent on the completion of specific development milestones.[132] From Q4 2020 to Q1 2025, the Fund invested $29 million into Apertor, which means that Apertor had drawn down over 75% of tranche 4 funds.[133] However, the milestones that tranche 4 funds are intended to support are significantly delayed, by more than a year. As a result, subsequent milestones are also significantly delayed. On May 6, 2025, ATP called an additional $1.6 million for Apertor, which I understand was received on May 22, 2025.[134] On May 30, 2025, ATP called an additional $7.1 million of capital, which I understand may not have been paid but would have brought the total investment to $37.7

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[127] RIGMORA00000266, at -266,Apertor Investment Memorandum ("Herein we describe the investment into Apertor, a synthetic biology NewCo initially focused on developing rapamycin analogs (rapalogs) in age-related diseases with the long-term vision of increasing health span and/or slowing down the aging process.").

[128] Verified Compl. Ex. 3, at 2 (May 30, 2025) ("Apertor uses its synthetic biology technology to invent and develop interceptors that disrupt disease-causing protein complexes via proximity induction with an endogenous protein to a target of interest. These proprietary interceptors can transform ineffective ligands into signaling complex assembly disruptors, opening new treatment avenues for cancer patients.").

[129] *Our Science*, Apertor Pharmaceuticals, https://apertorpharma.com/our-science/ (last visited Aug. 4, 2025) ("Additionally, Interceptors selectively target disease-relevant protein-protein interactions while sparing other essential functions, in contrast to the potential unwanted effects stemming from target degradation.").

[130] *Id*.; *See also Protein Degraders: Pioneering a Breakthrough in Targeted Therapy*, Biology Insights (Apr. 29, 2025), https://biologyinsights.com/protein-degraders-pioneering-a-breakthrough-in-targeted-therapy/ (last visited Aug. 4, 2025).

[131] ATP_00004667, at -676, ATP Quarterly Digest, First Quarter 2025.

[132] RIGMORA00000266, at -292–293, Apertor Investment Memorandum.

[133] ATP_00004667, at -676, ATP Quarterly Digest, First Quarter 2025; *See also* Appendix C.2.

[134] ATP_00119275, May 6, 2025 Apertor Capital Call; ATP_00089183, Email from W. Engels to S. Harrison re: "Capital Call – Initial & Apertor," dated May 22, 2025.

million, pushing Apertor into tranche 5.[135] Figure 6 below summarizes the budget proposed in the Apertor 2020 Investment Memorandum, the associated milestone expectations, and the company's progress to date.

[135] ATP_00003893, May 30, 2025 Apertor Capital Call. I understand from counsel the reference to EverCrisp in this capital call is an error.

FIGURE 6: APERTOR PHARMACEUTICALS MILESTONE COMPLETION

	Milestone (as per Investment Memorandum) [A]	**Expected Completion** [B]	**Actual Completion** [C]	**Status of Milestone** [D]
	Tranche 1 ($3 million)			
[1]	Initial close			Completed
	Tranche 2 ($3.5 million, cumulative $6.5 million)			
[2]	The Synthetic Biology Platform is established, and novel compounds are being synthesized	Q2 2021	Q1 2021	Completed
[3]	Profiling of 15-30 compounds (5-10 based on the structure of AB01 and 10-20 unrelated compounds) demonstrates evidence of differentiated biology with sufficient differentiation to file strong IP	Q2 2021	Unclear	Unclear
	Tranche 3 ($6 million, cumulative $12.5 million)			
[4]	Two novel leads from distinct series which are differentiated from existing mTORC1 inhibitors and supported by in vitro cellular profiling as well as in vivo efficacy and PK. From these series a development candidate will be delivered within 6 months	Q2 2022	Q1 2024	Completed late
[5]	The Synthetic Biology Platform has sequences and strains (e.g. robust heterologous host) available to initiate work on an additional TBD immunophilin ligand scaffold. The biological rationale for potential indications has been assessed	Q2 2022	Q1 2022	Completed
	Tranche 4 ($21.5 million, cumulative $34 million)			
[6]	DCN in the first TBD indication (e.g. vaccine adjuvant) supported by in vitro and in vivo ADME, full in vivo PK, and a 5-day toxicity study in rodents	Q4 2022	Q1 2025	Completed late
[7]	Novel analogs based on TBD immunophilin ligand scaffold are being synthesized through the platform	Q4 2022	Q2 2023	Completed late
	Tranche 5 ($16 million, cumulative $50 million)			
[8]	IND in the first indication	Q2 2024		Incomplete, significantly delayed
[9]	DCN in a second indication	Q2 2024		Incomplete, significantly delayed
	Milestones to be supported by Tranche 5			
[10]	Completion of a Phase 1 clinical trial in healthy volunteers in the first indication	Q1 2025		Incomplete, significantly delayed
[11]	An IND in the second indication within 6 months	Q1 2025		Incomplete, significantly delayed
[12]	At least one additional DCN in a third TBD indication	Q1 2025		Incomplete, significantly delayed

Notes and Sources:

In order to make this figure comparable to others in this report, milestones are listed under the funding tranche for which they are prerequisite. In the Investment Memorandum for this company, milestones are listed under the funding tranche from which they are meant to be financed.

"Incomplete" means not met as of Q1 2025.

"Completed late" means completed more than one quarter after the expected completion of the milestone.

[A], [B]: RIGMORA00000266, at -292–293, Apertor Investment Memorandum.

[C], [D]:

[2]: It is reasonably likely that this had been met by Q1 2021. This is based on the language in the Q2 2021 ATP quarterly digests that "[i]n-house synthetic biology work is progressing," suggesting that the platform was established in Q1 2021. *See* Appendix C.2, Q2 2021.

[3]: It is unclear if 15-30 compounds have been profiled and if differentiated biology has been achieved, although the following language in the ATP quarterly digests may suggest partial progress: "On June 25, 2021, Apertor filed two provisional patent applications claiming key composition of matter." *See* Appendix C.2, Q2 2021.

[4]: This is based on the following language in the ATP quarterly digests: "AP-414 showed improved efficacy at 5 mg/kg (weekly dosing) vs. the same dose of RMC-5552 in an MCF7 mouse xenograft model, likely as a function of improved exposure. . . . Additional compounds in the AP-414 series are currently being evaluated in vitro for improved potency and scalability, with the aim of advancing the final candidate to additional xenograft and safety studies in 2Q and candidate nomination by 4Q2024. . . . With in vivo efficacy demonstrated in the AP-414 series, the company has begun active discussions with venture groups and corporate partners including J&J, Debiopharm, and Versant." *See* Appendix C.2, Q1 2024.

[5]: Additional sequences and strains may be available to initiate work on additional scaffold based on the following language in the ATP quarterly digests: "New scaffolds of novel molecular glues of FKPB12 binders are emerging from the synthetic biology platform." *See* Appendix C.2, Q4 2021. The biological rationale assessment could be related to the following language: "Recent results suggest that the Apertor leads AP03 and AP07 do not deliver an autoimmune modulation profile." *See* Appendix C.2, Q1 2022.

[6]: This is based on the following language in the ATP quarterly digests: "Leadership has obtained BOD endorsement for AP-414 as a development candidate (DC) in 1Q25 . . . ." *See* Appendix C.2, Q1 2025.

[7]: This is based on the following language in the ATP quarterly digests: "The polyketide synthase platform is producing novel FKBP binders which can be used as building blocks for heterobifunctional molecules, analogous to RIPTACs." *See* Appendix C.2, Q2 2023.

[8]: No IND has been filed or projected. *See* Appendix C.2; Spiros Liras Dep. Tr. (Aug. 12, 2025), 167:12 ("Not an IND in the first indication . . . .").

[9]: This is based on the language in the ATP quarterly digests that a second candidate is projected "by 1Q26." *See* Appendix C.2, Q1 2025.

[10]: The lead program is far from entering a Phase 1 clinical trial and no IND has been filed or projected. *See* Appendix C.2.

[11]: No second program is in IND-enabling studies. *See* Appendix C.2.

[12]: No third program has been established. *See* Appendix C.2.

78. As shown in Figure 6 above, the Apertor 2020 Investment Memorandum planned for a submission of the lead program's IND application and a second DCN by Q2 2024. Neither of these milestones has been achieved,[136] and it is unlikely that they will be achieved in the near future. As of May 20, 2025, the company is targeting to file their first IND application in the

[136] *Pipeline*, Apertor Pharmaceuticals, https://apertorpharma.com/pipeline/ (last visited Aug. 15, 2025); *See also* Paul Da Silva Jardine Dep. Tr. (Aug. 4, 2025), 268:25–269:1 ("A: An IND has not been filed out of Apertor."); Spiros Liras Dep. Tr. (Aug. 12, 2025), 167:12 ("Not an IND in the first application . . . .").

second half of 2026.[137] ATP's internal 12-month probability assessment of hitting milestones as of April 2025 projects only a 25% chance that a second DCN would happen by Q1 2026.[138] As a result, tranche 5 milestones are significantly delayed.

79. The substantial delay in advancing a drug candidate to IND casts doubt on Apertor's ability to meet future development milestones and its commercialization prospects. In light of Apertor's progress, I believe it was reasonable for Rigmora to cease funding this investment.

C. DEEP APPLE THERAPEUTICS

80. Deep Apple Therapeutics ("Deep Apple"), a biotech company founded by the Fund and based in the San Francisco Bay Area, aims to accelerate early-stage drug discovery by integrating structural biology with artificial intelligence.[139] The process begins with researchers using cryogenic electron microscopy to model and visualize the three-dimensional structures of target proteins.[140] These structural insights are then used to guide a machine-learning-driven screening of Deep Apple's proprietary AI-generated database to identify small molecules that bind effectively to the protein.[141] Deep Apple's algorithms further refine these candidate molecules into promising lead compounds that feed into the next stage of drug development.[142] Deep Apple

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[137] Verified Compl. Ex. 3, at 2 (May 30, 2025).

[138] ATP_00039677, "ATP Portfolio Milestone Assess 4.9.2025_v1.xlsx," (Cell G15 indicates only a 25% chance of CRAF DC by Q126).

[139] *Deep Apple Therapeutics*, LinkedIn, https://www.linkedin.com/company/deep-apple-therapeutics (last visited Aug. 4, 2025).

[140] Deep Apple initially focuses on the G-protein coupled receptor (GPCR) family, which plays a key role in treating a wide range of diseases, including metabolic disorders, inflammatory and immune conditions, and endocrine diseases. *See Our Programs*, Deep Apple, https://deepappletx.com/our-programs/ (last visited Aug. 4, 2025); *see also Discovery Engine*, Deep Apple, https://deepappletx.com/discovery-engine/ (last visited Aug. 4, 2025) ("Our ensemble cryo-EM technology captures dynamics and motion from intermediate structural states."); Glennda Chui, *SLAC Science Explained, Cryogenic Electron Microscopy (Cryo-EM): Amazing Views of Life's Machiner*, SLAC National Accelerator Laboratory, https://www6.slac.stanford.edu/research/slac-science-explained/cryo-em (last visited Aug. 4, 2025).

[141] *Discovery Engine*, Deep Apple, https://deepappletx.com/discovery-engine/ (last visited Aug. 4, 2025) (referencing Deep Apple's "integrated, in silico approach for rapid hit discovery.").

[142] In medicine, a lead compound is defined as "a chemical compound that shows promise as a treatment for a disease and may lead to the development of a new drug." *Lead Compound*, NIH – National Cancer Institute, https://www.cancer.gov/publications/dictionaries/cancer-terms/def/lead-compound (last visited Aug. 4, 2025).

claims its approach can reduce the typical target identification-to-lead discovery timeline from over two and a half years to one year or less.[143]

81. The Fund began investing in Deep Apple in December 2021.[144] Between Q4 2021 and Q1 2025, the Fund invested $37 million in Deep Apple from a budget of $52 million.[145] According to the investment memorandum in 2021 (the "Deep Apple 2021 Investment Memorandum"), the initial budget was structured around five funding tranches, with each tranche contingent on the achievement of specific development milestones.[146] The total investment amount of $37 million to date means that this company has partially drawn down tranche 4. Based on my review, I find that Deep Apple is experiencing significant delays in the major development milestone required for tranche 4 funding – filing its first IND application by Q1 2024. It is also delayed in reaching the tranche 5 milestone – a second IND application filing by Q3 2024. On April 14, 2025, ATP called an additional $6 million for Deep Apple, which I understand was received on April 30, 2025.[147] On May 30, 2025, ATP called an additional $9 million of capital, which I understand may not have been paid but would have brought the total investment to $52 million, completing tranche 5.[148] Figure 7 summarizes the budget proposed in the Deep Apple 2021 Investment Memorandum, the associated milestones, and the company's progress to date.

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143 *Discovery Engine*, Deep Apple, https://deepappletx.com/discovery-engine/ (last visited Aug. 4, 2025) ("With its proprietary advanced capabilities in structure-based, machine-learning driven drug design, Orchard.ai™ by Deep Apple can rapidly accelerate from target ID to lead optimization in 12 months or less.").

144 ATP_00004667, at -678, ATP Quarterly Digest, First Quarter 2025.

145 ATP_00004667, at -678, ATP Quarterly Digest, First Quarter 2025; ATP_00012218, at -245–246 Deep Apple Investment Memorandum.

146 ATP_00012218, at -245–246, Deep Apple Investment Memorandum.

147 ATP_00022139, April 14, 2025 Deep Apple Capital Call; ATP_00089254, Email from W. Engels to S. Harrison, re: "Capital Call - Deep Apple," dated April 30, 2025.

148 ATP_00003899, May 30, 2025 Deep Apple Capital Call.

FIGURE 7: DEEP APPLE THERAPEUTICS MILESTONE COMPLETION

	Milestone (as per Investment Memorandum) [A]	**Expected Completion** [B]	**Actual Completion** [C]	**Status of Milestone** [D]
	Tranche 1 ($5 million)			
[1]	Initial close			Completed
	Tranche 2 ($7 million, cumulative $12 million)			
[2]	First lead to be identified	Q3 2022	Q2 2023	Completed late
	Tranche 3 ($12 million, cumulative $24 million)			
[3]	First development candidate to be nominated	Q2 2023	July 2024	Completed late
	Tranche 4 ($14 million, cumulative $38 million)			
[4]	First Investigational New Drug Application to be filed	Q1 2024		Incomplete, significantly delayed
	Tranche 5 ($14 million, cumulative $52 million)			
[5]	Second Investigational New Drug Application to be filed	Q3 2024		Incomplete, significantly delayed

Notes and Sources:

"Incomplete" means not met as of Q1 2025.

"Completed late" means completed more than one quarter after the expected completion of the milestone.

[A], [B]: ATP_00012218, at -245–246, Deep Apple Investment Memorandum,.

[C], [D]:

[2]: This is based on the following language in the ATP quarterly digests: "DAT 216 is the current lead . . . ." *See* Appendix C.3, Q2 2023.

[3]: ATP_00396570, at -575, "Deep Apple Confidential Overview: January 2025."

[4]: This is based on the following language in the ATP quarterly digests: "The MRGPRX2 program is on track to deliver an IND filing by the end of 4Q25." Appendix C.3, Q1 2025; *see also*, Seth Harrison Dep. Tr. (Day 2, Aug. 12, 2025), 333:2–4 ("Q: Deep Apple has not yet filed its IND with the FDA; correct? A: Correct").

[5]: No plans for a second IND were discussed in the quarterly digests. *See* Appendix C.3.

82. As shown in Figure 7, Deep Apple has not achieved key milestones that would unlock tranche 4 funds, despite having drawn a portion of tranche 4. The Deep Apple 2021 Investment Memorandum planned for the first IND application submission to be completed by Q1 2024. However, due at least in part to delays in completion of the earlier milestones, the expected completion date of the first IND application submission has been revised to Q4 2025, seven

quarters later than scheduled.[149] Additionally, the second IND application was originally scheduled for submission by Q3 2024 (for tranche 5), and this milestone has also not been met. Further, based on the materials I have reviewed, it appears that the company is no longer pursuing two INDs at all.[150]

83. In summary, Deep Apple missed its early development milestone target dates by three to five quarters and its significant delay to bring any drug candidate to the IND application stage raises concerns about its near-term progress and readiness for continued investment. In that context, it was reasonable for Rigmora to cease funding this investment.

D. EVERCRISP BIOSCIENCES

84. EverCrisp Biosciences ("EverCrisp") was founded in 2021 and is headquartered in San Francisco, California.[151] The company intends to develop protein genome editors for medical use. The approach combines miniature Cas9 enzymes, cell-penetrating peptides to enhance interaction with the cell surface, and antibody links with specialized connectors to guide targeting.[152] This technology aims to address two limitations with current genetic therapies: it would enable access to previously unreachable tissues and would reduce the need for high dosages through improved precision in targeting cells.[153]

85. The Fund began investing Rigmora's capital in EverCrisp on August 12, 2021, with an initial budget of $75 million to be deployed in six tranches over approximately five years, as outlined in the 2021 Investment Memorandum (the "EverCrisp 2021 Investment Memorandum").[154] From

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[149] ATP_00004667, at -678, ATP Quarterly Digest, First Quarter 2025. Deep Apple's Chief Scientific Officer, Dr. Jardine, confirmed in his deposition that the first IND application hasn't been filed. *See* Paul Da Silva Jardine Dep. Tr. (Aug. 4, 2025), 291:23-292:2 ("Q: Okay. So would you agree that the first milestone under Tranche 4 has not been satisfied? A. I would agree that it – I do not have IND filed as yet.")

[150] As of May 30, 2025, materials I have reviewed describe Deep Apple's focus as on *either* their first IND program (DA-01) *or* their obesity program. It appears that the company is no longer targeting two INDs, but instead relying on one program alone, either DA-01 or obesity. Verified Compl. Ex. 3, at 2–3 (May 30, 2025) .

[151] *EverCrisp Biosciences*, PitchBook, https://pitchbook.com/profiles/company/509539-78.

[152] RIGMORA00000396, at -401, EverCrisp Investment Memorandum.

[153] RIGMORA00000396, at -399–400, EverCrisp Investment Memorandum. *See also Redefining What is Possible in Genetic Medicine*, EverCrisp, https://www.evercrispbio.com/ (last visited Aug. 4, 2025).

[154] RIGMORA00000396, at -426, EverCrisp Investment Memorandum;ATP_00000030, at -036, "ATP Life Science Ventures, L.P., Consolidated Financial Statements and Report of Independent Auditors, As of and for the Year Ended December 31, 2021".

Q3 2021 through Q1 2025, the Fund invested $26 million, fully drawing tranches 1 through 3 and more than half of tranche 4.[155] Yet EverCrisp is behind in achieving the milestones necessary to unlock tranche 2 to 4 funds. In effect, the company has drawn a significant portion of its allocated capital without meeting the core scientific milestones required for the continuation of tranche-based funding. Notably, the company anticipated an IND application filing around Q2 2024.[156] However, based on my review, the company is likely at least one to two years away from reaching this goal even if remaining pre-clinical work succeeds, which is not assured. ATP's internal assessments confirm that, as of Q4 2024, EverCrisp was still targeting the nomination of its first development candidate by Q4 2025, underscoring how far the company remains from its potential IND application filing.[157] On May 30, 2025, ATP called an additional $7 million of capital, which I understand may not have been paid but would have brought the total investment to $33 million, or nearly to the end of tranche 4.[158] Figure 8 summarizes the budget proposed in the EverCrisp 2021 Investment Memorandum, the associated milestones, and the company's progress to date.

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[155] ATP_00004667, at -670, ATP Quarterly Digest, First Quarter 2025.

[156] RIGMORA00000396, at -426, EverCrisp Investment Memorandum (noting that Tranche 5 is intended to open "at IND" in approximately "2Q24").

[157] ATP_00119573, ATP Portfolio Tracker, Fourth Quarter 2024.

[158] ATP_00003902, May 30, 2025 EverCrisp Capital Call.

FIGURE 8: EVERCRISP BIOSCIENCES MILESTONE COMPLETION

	Milestones (as per Investment Memorandum) [A]	**Expected Completion** [B]	**Actual Completion** [C]	**Status of Milestone** [D]
	Tranche 1 ($3.5 million)			
[1]	Initial close			Completed
	Tranche 2 ($4.5 million, cumulative $8 million)			
[2]	Identification of a compact Cas9 enzyme conducive to further engineering that has comparable editing efficiency and specificity to full Cas9 in vitro	Q2 2022	Only partial progress	Incomplete, significantly delayed
	Tranche 3 ($5.5 million, cumulative $13.5 million)			
[3]	Self-delivery properties demonstrated in vitro	Q1 2023	Only partial progress	Incomplete, significantly delayed
	Tranche 4 ($20 million, cumulative $33.5 million)			
[4]	Self-delivery properties demonstrated in vivo	Q3 2023	Only partial progress	Incomplete, significantly delayed
	Tranche 5 ($20 million, cumulative $53.5 million)			
[5]	IND submission for one program	Q2 2024		Incomplete, significantly delayed
	Tranche 6 ($21.5 million, cumulative $75 million)			
[6]	Clinical proof of mechanism for one program	Q2 2025		Incomplete, significantly delayed

Notes and Sources:

"Incomplete" means not met as of Q1 2025.

[A], [B]: RIGMORA00000396, at -426, EverCrisp Investment Memorandum.

[C], [D]:

[2], [3], and [4]: I understand that Spiros Liras, an EverCrisp board member, has testified that the company has completed the milestones tied to tranche 2, tranche 3, and potentially tranche 4. *See* Spiros Liras Dep. Tr. (Aug. 12, 2025), 132:4-133:18. However, based on the information available to me, I assess that EverCrisp has made partial progress but has not completed milestones for these tranches.

Regarding the tranche 2 milestone, the available documents suggest that EverCrisp has not achieved high editing efficiency without the use of endosomal escape agents ("EEA"). In my experience, this milestone would typically require achieving a high editing efficiency without relying on an EEA (which could be associated with additional toxicity). And even with an EEA, the achieved editing efficiency of up to 90% (*see e.g.*, ATP_00005423, at -436, ATP Quarterly Digest, First Quarter 2024) may be less than originally expected.

Regarding tranche 3 and tranche 4, the available documents indicate that EverCrisp has not demonstrated self-delivery properties of a "compact Cas9 enzyme . . . that has comparable editing efficiency and specificity to full Cas9", as written in the tranche 2 milestone and originally envisioned in the IM. RIGMORA00000396, at -426, EverCrisp Investment Memorandum. Instead, in Q1 2025, an investor presentation reports on demonstrating in vivo self-delivery for an "siRNA Payload" and both in vitro and in vivo self-delivery for an "htfR1-Targeted Miniprotein with an RNP Payload" (I assume RNP refers to ribonucleoprotein). *See* ATP_00400172, at -182–183, "Unlocking the Full Potential of Genetic Medicines Through Tissue Targeted Intracellular Delivery, Q1 2025." However, neither of these molecules appears to

be a "compact Cas9 enzyme . . . that has comparable editing efficiency and specificity to full Cas9 . . . .". *See* RIGMORA00000396, at -426, EverCrisp Investment Memorandum. Clearly, some progress has been made. However, the editing entity described in the tranche 2 milestone has not been delivered, to my best assessment of the documentation. If new information becomes available on EverCrisp's progress toward these milestones, I will revisit and may revise my assessment.

[5]: No indication of a currently anticipated IND application filing. *See* Appendix C.4.

[6]: No indication of a currently anticipated IND application filing or clinical milestones. *See* Appendix C.4.

86. As shown in Figure 8, EverCrisp is not only significantly behind on its major inflection point milestone of an IND application (tranche 5, which also means a delay of the tranche 6 milestone), but also has not achieved earlier milestones that were required for the tranche-based funding it has already drawn. For example:

a. A key milestone for the release of tranche 2 funds was achieving a sufficiently high "editing efficiency" by Q2 2022. However, EverCrisp had only reached 50% editing efficiency by Q1 2024,[159] and achieved up to 90% only when including an escape agent.[160] I do not consider this milestone to have been completed because a high level of editing efficiency was not achieved without relying on an escape agent (which could be associated with additional toxicity). While EverCrisp simultaneously worked on later stage milestones, incomplete or insufficient progress on earlier stage work can impede the overall pipeline, both by spreading the team across workstreams and reducing focus on the critical aspects of the earlier milestones.

b. Milestones under tranches 3 and 4 focused on demonstrating self-delivery for a Cas9 protein,[161] first *in vitro*, then *in vivo* by Q1 and Q3 2023, respectively. Neither goal appears to have been achieved. A Q1 2025 investor presentation discusses work on *in vitro* and *in vivo* delivery for an "siRNA Payload" (*in vivo* only) and a "htfR1-Targeted Miniprotein with an RNP [ribonucleoprotein] Payload."[162] Neither of these molecules appears to be a "compact Cas9 enzyme . . . that has comparable editing efficiency and specificity to full

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[159] ATP_00005423, at -436, ATP Quarterly Digest, First Quarter 2024. Editing efficiency reflects the proportion of cells successfully modified by a gene-editing system and is a critical determinant of therapeutic viability and dose requirements.

[160] ATP_00005423, at -436, ATP Quarterly Digest, First Quarter 2024.

[161] I interpret the milestones for tranches 3 and 4 to require demonstration of self-delivery properties for a Cas9 enzyme, consistent with the Evercrisp 2021 Investment Memorandum, which states that "EverCrisp will concentrate on developing an engineered Cas9 protein with self-delivery properties." RIGMORA00000396, at -406, EverCrisp Investment Memorandum.

[162] ATP_00400172, at -182–183, "Unlocking the Full Potential of Genetic Medicines Through Tissue Targeted Intracellular Delivery, Q1 2025".

Cas9," as written in the tranche 2 milestone description. Given that EverCrisp's original investment memorandum envisioned the company would concentrate on self-delivery of a Cas9 enzyme,[163] I would consider the company's progress so far to only partially fulfill the milestones tied to tranche 3 and 4 funding. These delays highlight ongoing challenges in advancing EverCrisp's core technology and moving its therapeutic programs toward clinical readiness.

87. In summary, the company has experienced significant delays across nearly all milestones since its inception, which raises questions about execution and the underlying scientific feasibility. In the context of milestone-based financing, such underperformance poses a material risk to capital efficiency. Therefore, I believe it was reasonable for Rigmora to cease funding EverCrisp.

E. INITIAL THERAPEUTICS

88. Initial Therapeutics Inc. ("Initial") is a biotech company founded in 2020 and headquartered in San Francisco, California.[164] The company seeks to develop small-molecule drugs for cancer and other serious diseases using selective termination of protein synthesis ("STOPS").[165] According to Initial, unlike traditional therapies that target mature proteins, STOPS would block the synthesis of disease-causing proteins at an early stage.[166] Because it would not require an

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163 RIGMORA00000396, at -406, EverCrisp Investment Memorandum.

164 *Initial Therapeutics*, PitchBook, https://pitchbook.com/profiles/company/463434-94 (last visited Aug. 4, 2025). Initial was originally named Opal Biosciences, and was renamed due to a potential trademark conflict; *See* ATP_00016129, at -138, ATP Quarterly Digest, Second Quarter 2020.

165 *With $75 Million from Apple Tree Partners, Initial Therapeutics Launches to Create a New Kind of Drug Designed to Stop the Formation of Difficult-to-Drug Protein Targets*, BioSpace, https://www.biospace.com/with-75-million-from-apple-tree-partners-initial-therapeutics-launches-to-create-a-new-kind-of-drug-designed-to-stop-the-formation-of-difficult-to-drug-protein-targets (last visited August 4, 2025) ("Apple Tree Partners (ATP), a leader in life sciences venture capital, today announced the launch of Initial Therapeutics, a biotechnology company created to make medicines that block notoriously difficult-to-drug protein targets with a new mode of action: selective termination of protein synthesis (STOPS).").

166 *Science*, Initial Therapeutics, https://initialtx.com/science.html (last visited August 5, 2025) ("An advantage of our STOPS modality, which interrupts protein formation in a nascent stage, is that modulating the cellular activity of known, well-validated targets does not require prior characterization of the mature protein target's structure or the presence of druggable binding pockets in the mature protein.").

understanding of a mature protein's complex structure, STOPS would expand the range of potential drug targets beyond those accessible through conventional approaches.[167]

89. The Fund began investing in Initial in 2020.[168] Between Q3 2020 and Q1 2025, the Fund invested $51.27 million in Initial, out of a budget of $75 million.[169] According to the investment memorandum in 2020 (the "Initial 2020 Investment Memorandum"), the budget was structured around six funding tranches, with each tranche contingent on the achievement of specific development milestones.[170] The total investment amount of $51.27 million means that this company has partially drawn down tranche 6. Based on my review, I find that Initial is experiencing delays in development milestones required to receive even tranche 5 funding, such as completing a hit-to-lead campaign for three additional targets, in addition to lead optimization for their primary target, by Q2 2023.[171] It is also delayed in completing milestones to receive tranche 6 funding, such as nominating a development candidate, and initiating lead optimization in three targets in addition to their lead program by Q3 2024. On April 4, 2025, ATP called an additional $2 million for Initial, which I understand was received on April 18, 2025.[172] Then, on May 6, 2025, ATP called an additional $1.8 million for Initial, which I understand was received on May 22, 2025.[173] On May 30, 2025, ATP called an additional $7 million of capital, which I understand may not have been paid but would have brought the total investment to $62 million, pushing Initial further into tranche 6.[174] Figure 9 below summarizes the budget proposed in the

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167 *With $75 Million from Apple Tree Partners, Initial Therapeutics Launches to Create a New Kind of Drug Designed to Stop the Formation of Difficult-to-Drug Protein Targets*, Initial Therapeutics, https://initialtx.com/pdfs/Initial-Therapeutics-launch-press-release-5-1-23.pdf (last visited Aug. 4, 2025) ("Where other drug modalities involve recognition of the three-dimensional shape of the protein, Initial's modality recognizes the primary linear sequence. I see that as a game-changer . . . . When the therapeutic approach doesn't concern mature proteins, the rules of drug discovery change and the universe of what is 'druggable' expands significantly.").

168 ATP_00016129, at -138, ATP Quarterly Digest, Second Quarter 2020.

169 ATP_00004667, at -670, ATP Quarterly Digest, First Quarter 2025.

170 ATP_00066032, 045–046, Opal [Initial] Investment Memorandum (Translation Inhibition).

171 Because the Initial 2020 Investment Memorandum lists tranche funding amounts preceding the milestones which the funding is to be used to accomplish, I have assumed that completion is expected by the quarter preceding the next tranche of funding. For instance, where funding is estimated to be issued Q3 2022, I have assumed the milestones associated with the preceding tranche are estimated to be completed by Q2 2022.

172 ATP_00004656, April 4, 2025 Initial Capital Call; ATP_00089198, Email from W. Engels to S. Harrison re: "Capital Call – Initial & Nine Square," dated April 18, 2025.

173 ATP_00119271, May 6, 2025 Initial Capital Call; ATP_00089183 Email from W. Engels to S. Harrison re: "Capital Call – Initial & Nine Square," dated May 22, 2025.

174 ATP_00003909, May 30, 2025 Initial Capital Call.

Initial 2020 Investment Memorandum, the associated milestones, and the company's progress to date.

FIGURE 9: INITIAL THERAPEUTICS MILESTONE COMPLETION

	Milestones (as per investment memorandum) [A]	**Expected Completion** [B]	**Actual Completion** [C]	**Status of Milestone** [D]
	Tranche 1 ($1 million)			
[1]	Initial close			Completed
	Tranche 2 ($1.7 million, cumulative $2.7 million)			
[2]	Validate synthetic transformations for privileged library	Q4 2020	Q1 2021	Completed
[3]	Set up ribosomal profiling platform	Q4 2020	Q1 2021	Completed
	Tranche 3 ($3.8 million, cumulative $6.5 million)			
[4]	Complete privileged library synthesis	Q2 2021	Q1 2021	Completed
[5]	Complete high through-put screening for high value target	Q2 2021	Q2 2021	Completed
	Tranche 4 ($15.8 million, cumulative $22.3 million)			
[6]	Complete hit-to-lead campaign and initiate mechanistic and structural studies for Target 1	Q2 2022	Q4 2021	Completed
[7]	Complete screening for 2 high-value targets: Target 2 and Target 3 and nominate a high-value target for ribosomal profiling	Q2 2022	Q1 2022	Completed
	Tranche 5 ($18.3 million, cumulative $40.6 million)			
[8]	Initiate lead optimization for Target 1	Q2 2023	Q2 2022	Completed
[9]	Complete hit-to-lead campaign and mechanistic and structural studies for Target 2, Target 3, Target 4	Q2 2023	Q3 2023 (Target 2)	Completed only for Target 2. Incomplete for Target 3 and Target 4.
	Tranche 6 ($34 million, cumulative $74.6 million)			
[10]	Deliver development candidate nomination for Target 1	Q2 2024		Incomplete, significantly delayed
[11]	Initiate lead optimization for Target 2, Target 3, Target 4	Q2 2024	Q3 2023 (Target 2)	Completed only for Target 2. Incomplete for Target 3 and Target 4.
[12]	Complete hit-to-lead campaign and mechanistic and structural studies for Target 5	Q2 2024		Incomplete, significantly delayed
	Milestones to be supported by Tranche 6			
[13]	Complete Phase 1 for Target 1	Q3 2025		Incomplete, significantly delayed
[14]	Target 2, Target 3, Target 4 are ready to start Phase 1	Q3 2025		Incomplete, significantly delayed
[15]	Deliver development candidate nominations for Target 5	Q3 2025		Incomplete, significantly delayed
[16]	Initiate lead optimization for Target 6	Q3 2025		Incomplete, significantly delayed

Notes and Sources:

"Incomplete" means not met as of Q1 2025.

[A], [B]: ATP_00066032, at -045–047, Opal Investment Memorandum (Translation Inhibition). In order to make this figure comparable to others in this report, milestones are listed under the funding tranche for which they are prerequisite. In the Investment Memorandum for this company, milestones are listed under the funding tranche from which they are meant to be financed.

[C], [D]:

[2], [3], [4]: This is based on the following language in the ATP quarterly digests: "The design of Initial's first proprietary compound library of 750 compounds is complete. The synthesis of more than 500 compounds has been completed, and screening commenced in April 2021. The library will be used in ribosome profiling studies to identify new biological targets." *See* Appendix C.5, Q1 2021.

[5]: This is based on the following language in the ATP quarterly digests: "In 2Q21, two in vitro well characterized hits were confirmed for MYC, a protein-coding gene involved in certain cancers; hit expansion libraries on these have been designed and are in synthesis." *See* Appendix C.5, Q2 2021.

[6]: This is based on the following language in the ATP quarterly digests: "The lead program, c-MYC, is advancing to in vitro and in vivo work in disease models this quarter." *See* Appendix C.5, Q4 2021.

[7]: In its Q3 2021 digest, ATP indicated that "Additional portfolio activities include hit confirmation for KRAS and reagent creation for in vitro translation screening for additional targets." *See* Appendix C.5, Q3 2021. Similarly, ATP's Q4 2021 digest stated that "Screening for additional targets has been completed to afford a healthy pipeline and projects. Attractive hits for ARV7, n-MYC, NRF2, beta catenin, and HTT have been identified." *See* Appendix C.5, Q4 2021. Finally, ATP's Q1 2022 digest indicated that "Initial has prioritized AR V7 as its next target; a complete screening strategy has been developed, and the project is entering hit to lead." *See* Appendix C.5, Q1 2022.

[8]: This is based on the following language in the ATP quarterly digests: "Based on a favorable readout from a single ascending dose study for pharmacokinetics and tolerability, c-Myc lead ITC651 will be advanced to multiple ascending dose and efficacy studies planned to commence in August." *See* Appendix C.5, Q2 2022.

[9]: This is based on the following language in the ATP quarterly digests: "Mechanistic studies have identified compounds with a different in vitro translation profile, exhibiting longer and more sustained duration of translational inhibition for c-Myc and ARV7. These compounds will be evaluated in vivo." *See* Appendix C.5, Q3 2023. I understand that, at this point, ARV7 and NRF2 were Target 2 and Target 3 in Initial's portfolio, respectively.

[10]: This is based on the following language in the ATP quarterly digests: "Initial Therapeutics plans to operate both the cMYC and Pan-AR programs in parallel through 2Q25, at which point one program will be selected for advancement with the goal of declaring a Development Candidate by 4Q." *See* Appendix C.5, Q4 2024. I am aware that Spiros Liras stated that "[w]e delivered compound named ITX-4819 [sic], it was our first development candidate." S. Liras Dep. Tr. (Aug. 12, 2025), 241:25–242:1. Based on the ATP quarterly digests, this drug had not been nominated as of Q2 2024, and in Q3 2024, potential back-up programs were being identified. *See* Appendix C.5, Q2 2024 ("Continuation of partnering discussions is expected post formal nomination of ITC-4819 in 3Q24."); Appendix C.5, Q3 2024 ("The Initial team continues to evaluate ITC-4819 as a development candidate for its cMYC program . . . Additional activities are underway in the cMYC program to identify potential back-ups to ITC-4819 . . . .").

[11]: This is based on the following language in the ATP quarterly digests: "ITC 45258 is the lead compound in the pan-AR program, and it has demonstrated improved PK such that it covers the cellular IC50 in a relevant AR cell line for >8 hours." *See* Appendix C.5, Q3 2023. *See also*, S. Liras Dep. Tr. (Aug. 12, 2025), 244:12–19 ("No. Target 3 we have a hit finding campaign which we completed . . . it was based on board discussion deemed as more valuable and appropriate to trigger partnership and external investment to focus on the first two programs.").

90. As shown in Figure 9, to unlock tranche 6, it was expected that by Q2 2024, Initial would nominate a development candidate, initiate lead optimization for three targets in addition to its lead program, and complete a hit-to-lead campaign and mechanistic and structural studies for

fifth target. Despite having partially drawn down tranche 6, the company has not completed any of these milestones. The Initial 2020 Investment Memorandum also envisions the company completing a Phase 1 trial for the lead program, having three additional targets ready for clinical trials, nominating a development candidate for a fifth target, and initiating lead optimization for a sixth target by Q3 2025. As of May 20, 2025, the company was still in lead optimization with its most advanced compound, and a development candidate nomination was expected for Q4 2025.[175] Without having nominated a viable development candidate, Initial is likely years away from completing a Phase 1 trial. Further, Initial does not appear to be pursuing additional targets at this time, such that it is highly unlikely that the company will be able to achieve any of the milestones originally expected to be completed by Q3 2025.[176]

91. The significant delay in advancing even one drug candidate beyond DCN raises concerns around the ability of Initial to meet future development milestones and the company's overall commercialization prospects.[177] Considering the company's progress to date, I believe that it was reasonable for Rigmora to cease funding this investment.

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[175] Exhibits 1 – 11 to Verified Complaint, *ATP III GP, LTD. v. Rigmora Biotech Investor One LP and Rigmora Biotech Investor Two LP*, May 30, 2025, Exhibit 3, p. 4.

[176] Exhibits 1 – 11 to Verified Complaint, *ATP III GP, LTD. v. Rigmora Biotech Investor One LP and Rigmora Biotech Investor Two LP*, May 30, 2025, Exhibit 3, p. 4; *see also*, S. Liras Dep. Tr. (Aug. 12, 2025), 244:16–22 ("A: No, it was -- it was based on board discussion deemed as more valuable and appropriate to trigger partnership and external investment to focus on the first two programs. And supply the rest of the programs as additional evidence of the power of the platform which could be partnered early.").

[177] Several quarterly digests reference a potential Series B fundraising or partnership agreement. However, it is unclear whether these efforts are still in progress. *See* Appendix C.5, Q3 2023 ("Productive business development discussions with Merck and Novo Nordisk have taken place, with an agreement to reengage at JPM in January [. . .] Positive interactions with venture groups [. . .] have also taken place in anticipation of raising additional funds in 2024."); Appendix C.5, Q1 2024 ("Initial has continued to progress discussions with VCs with the goal of raising a $75M+ Series B in 2024. Initial is also in discussion with several potential partners and has shared under CDA the list of additional targets to which Initial has hit compounds."); Appendix C.5, Q4 2024 ("The company will explore partnering discussions with pharmaceutical partners for the second program as appropriate (Merck, J&J).").

F. MARLINSPIKE THERAPEUTICS

92. Marlinspike Therapeutics ("Marlinspike"), founded in 2022, is a privately held biotech company based in Cambridge, Massachusetts.[178] The company has sought to develop novel small-molecule drugs to treat cancer.[179] Its work centers on a process called RNA splicing, a cellular process in which RNA is cut and rearranged to produce functional proteins.[180] In many cancers, RNA splicing is disrupted, often due to mutations or dysfunctions in the cellular machinery responsible for splicing.[181] Such mutations weaken the cancer cell's splicing process, and, according to Marlinspike, it is working to identify and exploit these vulnerabilities using a synthetic lethality approach.[182] This approach targets cancer cells with splicing defects while sparing healthy cells, with a goal of helping to reduce the side effects typically associated with traditional treatments.[183]

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[178] *Marlinspike Therapeutics*, LinkedIn, https://www.linkedin.com/company/marlinspike-therapeutics (last visited August 4, 2025).

[179] *Marlinspike Therapeutics*, LinkedIn, https://www.linkedin.com/company/marlinspike-therapeutics (last visited August 4, 2025).

[180] ATP_00012157, at -158, Marlinspike Investment Memorandum ("The vision of Marlinspike will be to develop and own a platform that established it as a leader in the discovery and development of small molecule inhibitors of RNA helicases and Alternative Splicing (AS).").

Ribonucleic acid ("RNA") "is an essential molecule that performs many roles in the cell, from carrying the instructions to make proteins to regulating genes," and RNA splicing is a process by which "[s]ome regions of the RNA sequence . . . can be cut out of the RNA." *Ribonucleic Acid (RNA)*, NIH – National Human Genome Research Institute, https://www.genome.gov/about-genomics/educational-resources/fact-sheets/ribonucleic-acid-fact-sheet (last visited August 13, 2025).

[181] ATP_00012157, at -158, Marlinspike Investment Memorandum ("RNA splicing perturbations, for example, are common in cancer and are associated with mutations in and/or altered expression of the components of the splicing machinery.").

[182] Synthetic lethality occurs when simultaneous perturbation of two genes leads to cell or organismal death. *See* Sebastian MB Nijman, "Synthetic lethality: General principles, utility and detection using genetic screens in human cells," *FEBS Letters*, 585(1) (January 2011): 1–6; ATP_00012157, at -158, Marlinspike Investment Memorandum ("Cancer cells generate advantageous splicing variants, at the cost of reducing the efficiency or fidelity of the splicing process, thus potentially conferring a special susceptibility to splicing inhibitors. This provides a therapeutic window for targeting the splicing processes and enables the exploitation of functional genomics to undertake synthetic lethality screens for the discovery of novel pathways that are cancer cell specific.").

[183] *Synthetic Lethality: New Horizons in Cancer Treatment*, Biology Insights, April 29, 2025, https://biologyinsights.com/synthetic-lethality-new-horizons-in-cancer-treatment/ (last visited August 4, 2025) ("This approach leverages unique interactions within cancer cells to selectively induce cell death, minimizing side effects associated with traditional therapies.").

93. The Fund began investing in Marlinspike in February 2022.[184] Between Q1 2022 and Q1 2025, the Fund invested $28.725 million in Marlinspike from a budget of $65 million.[185] According to the investment memorandum in 2021 (the "Marlinspike 2021 Investment Memorandum"), the initial budget was structured around six funding tranches, with each tranche contingent on the achievement of specific development milestones.[186] Based on my review, Marlinspike has failed to meet certain milestones as early as tranche 2,[187] and is experiencing significant delay with its last milestone of submitting an IND application by Q3 2025. In my opinion, given the progress updates of the company, it is far away, possibly years, from an IND application. On May 30, 2025, ATP called an additional $6.3 million of capital, which I understand may not have been paid but would have brought the total investment to $35.025 million, pushing Marlinspike further into tranche 4.[188] Figure 10 summarizes the original budget, the associated milestone expectations, and the company's progress to date.

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184 ATP_00004667, at -680, ATP Quarterly Digest, First Quarter 2025.

185 ATP_00089527, "ITD Capital 12.31.24.xlsx" (sum of all entries marked "Marlinspike" on sheet Pool V-2 Total); ATP_00012157, at -172–173, Marlinspike Investment Memorandum.

186 ATP_00012157, at -172–173, Marlinspike Investment Memorandum.

187 Marlinspike does not have a full-time CEO. *See* RIGMORA00013895, at -897, "Nereid Therapeutics and Marlinspike Therapeutics Merger Memo, December 11, 2024" ("Marlinspike does not have a full-time management team in place and has been operating with ATP Venture Partners as interim CEO and interim CSO.").

188 ATP_00003915, May 30, 2025 Marlinspike Capital Call.

FIGURE 10: MARLINSPIKE THERAPEUTICS MILESTONE COMPLETION

	Milestone (as per Investment Memorandum) [A]	**Expected Completion** [B]	**Actual Completion** [C]	**Status of Milestone** [D]
	Tranche 1 ($3.5 million)			
[1]	Initial close			Completed
	Tranche 2 ($7 million, cumulative $10.5 million)			
[2]	CEO to be hired	Q4 2022		Incomplete, significantly delayed
[3]	First program to reach hit identification with foundational safety and structural data	Q4 2022	Q3 2022	Completed
[4]	Second program to be biologically validated	Q4 2022	Unclear	Unclear
[5]	Platform established to support four helicase targets	Q4 2022	Q2 2022	Completed
	Tranche 3 ($12 million, cumulative $22.5 million)			
[6]	DHX15 to enter lead optimization	Q3 2023	Q2 2023	Completed
[7]	Second program to initiate lead identification	Q3 2023	Q2 2023	Completed
[8]	Third helicase to reach biological validation	Q3 2023	Unclear	Unclear
[9]	Computational chemistry to be integrated	Q3 2023	Q3 2022	Completed
[10]	Company to prepare for team build-out post-incubation	Q3 2023	Unclear	Unclear
	Tranche 4 ($14 million, cumulative $36.5 million)			
[11]	Platform to demonstrate ability to identify drug-like matter across multiple helicases	Q2 2024	Q1 2023	Completed
[12]	First program from second synthetic lethal screen to complete HTS and confirm initial hits	Q2 2024	Unclear	Unclear
[13]	First non-alternative splicing (AS) helicase program to initiate	Q2 2024		Incomplete, significantly delayed
	Tranche 5 ($14 million, cumulative $50.5 million)			
[14]	Program 1 development candidate nominated and begin IND-enabling studies	Q1 2025		Incomplete, significantly delayed
[15]	First program from second synthetic lethal screen to validate initial hits	Q1 2025	Unclear	Unclear
[16]	First non-AS helicase program to complete HTS	Q1 2025		Incomplete, significantly delayed
[17]	Full C-suite to be recruited	Q1 2025		Incomplete, significantly delayed
	Tranche 6 ($14.5 million, cumulative $65 million)			
[18]	IND application to be filed for the lead program	Q3 2025		Incomplete, significantly delayed
[19]	Second helicase candidate to be nominated and advance to IND-enabling studies	Q3 2025		Incomplete, significantly delayed

Notes and Sources:

"Unclear" means it is not clear if the milestone has been reached based on the quarterly digests.

"Incomplete" means not met as of Q1 2025.

[A], [B]: ATP_00012157, at -172–173, Marlinspike Investment Memorandum.

[C], [D]:

[2]: RIGMORA00013895, at -897, "Nereid Therapeutics and Marlinspike Therapeutics Merger Memo, December 11, 2024" ("Marlinspike does not have a full-time management team in place and has been operating with ATP Venture Partners as interim CEO and interim CSO.").

[3]: This is based on the following language in the ATP quarterly digests: "[S]creening was completed for DHX15, with hits identified . . . ." *See* Appendix C.6, Q3 2022.

[4]: It is unclear what would be considered biological validation in this context, and quarterly digests do not discuss any program achieving biological validation.

[5]: This is based on the following language in the ATP quarterly digests: "High throughput screening (HTS) is being undertaken for the DHX15 target . . . ." This assumes that if the platform can support screening for a helicase, it is capable of supporting next programs. *See* Appendix C.6, Q2 2022.

[6]: This is based on the following language in the ATP quarterly digests: "screening for additional DHX15 scaffolds [had] . . . hits entering the lead optimization stage." *See* Appendix C.6, Q2 2023.

[7]: This is based on the following language in the ATP quarterly digests: "[t]he company has commenced DHX 38 high throughput screening." *See* Appendix C.6, Q2 2023.

[8]: It is unclear what would be considered biological validation in this context, and quarterly digests do not discuss any program achieving biological validation.

[9]: This is based on the following language in the ATP quarterly digests: "Marlinspike established its biochemistry and computational biology platform." *See* Appendix C.6, Q3 2022.

[10]: This is based on the following language in the ATP quarterly digests: "[Marlinspike] hired Alessandro Boezio as head of chemistry" in Q3 2022 and "hired a head of Biology" in Q3 2023. It is unclear if this is sufficient to complete this milestone. *See* Appendix C.6, Q3 2022 and Q3 2023.

[11]: This is based on the following language in the ATP quarterly digests: "third screen is being planned [for DDX 46]" which indicates that drug-like matter has been identified across multiple (3) helicases. *See* Appendix C.6, Q1 2023.

[13]: Paul Da Silva Jardine Dep. Tr. (Aug. 4, 2025), 223:13–224:3 ("Q. Has the first non-AS helicase program reached the point where it is ready to initiate? . . . A. . . . No, it's not ready to initiate yet.")

[14]: No program is at DC yet, with the earliest DC projected to happen in 1H26. *See* ATP_00400071, at -073, "Marlinspike Therapeutics: Targeting specific nodes of RNA splicing as novel cancer vulnerabilities with an initial focus on RNA helicases in c-MYC-driven cancers, January 2025."

[16]: Paul Da Silva Jardine Dep. Tr. (Aug. 4, 2025), 223:13–224:3 ("Q. Has the first non-AS helicase program reached the point where it is ready to initiate? . . . A. . . . No, it's not ready to initiate yet.")

[18]: No IND application has been filed or projected. *See* Appendix C.6.

[19]: No second helicase candidate nomination described in the quarterly digests. *See* Appendix C.6.

94. As described above in Section IV, the submission of an IND application requires a series of pre-clinical studies to assess a drug candidate's safety, efficacy, pharmacokinetics, and dosing. It is not uncommon for companies to be at the pre-clinical stage for years before they are ready to submit an IND application. Although Marlinspike noted that one of its programs (DHX15) entered IND-enabling studies in Q1 2024, quarterly digests include no mention of an IND

application being filed, and it appears that the program was put on hold for some period.[189] Investors typically consider the IND application to be a major inflection point in a biotech company's valuation. In addition, as part of the budget, the company also anticipated nominating a second development candidate and advancing it to IND-enabling studies by Q3 2025 (as part of the milestones to unlock tranche 5 funds). However, as of May 2025, Marlinspike still had not nominated a second candidate and had reset its expectations for a second DCN to be in Q4 2025.[190] ATP's internal 12-month probability assessment of hitting milestones as of April 2025 projects only a 50% probability that this DCN will be achieved by Q4 2025.[191]

95. With regard to earlier milestones, Figure 10 shows that Marlinspike never fully completed the milestones required for tranche 2, despite having drawn down all of tranches 2 and 3, and a portion of tranche 4.[192] It has also failed to complete all the milestones necessary to unlock tranche 4. Specifically, the Marlinspike 2021 Investment Memorandum lists both the confirmation of initial hits from a synthetic lethal screen and being prepared to initiate a non-alternative splicing helicase program by Q2 2024 as key milestones for unlocking tranche 4.[193] Yet, no updates related to synthetic lethal programs or non-alternative splicing helicase programs are clearly described in any of the company's quarterly digests. I understand from Dr. Jardine's deposition that a non-alternative splicing helicase program was never initiated.[194]

96. In Figure 10, I indicate "unclear" for a number of milestones. This is because the language of the milestones is not clear, and their progress cannot be understood or inferred from the quarterly

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189 Exhibits 1 – 11 to Verified Complaint, *ATP III GP, LTD. v. Rigmora Biotech Investor One LP and Rigmora Biotech Investor Two LP*, May 30, 2025, Exhibit 3, p. 5.

190 Exhibits 1 – 11 to Verified Complaint, *ATP III GP, LTD. v. Rigmora Biotech Investor One LP and Rigmora Biotech Investor Two LP*, May 30, 2025, Exhibit 3, p. 5.

191 ATP_00039677, "ATP Portfolio Milestone Assess 4.9.2025_v1.xlsx,", (referring to the SF3B1 project in row "Nereid-Marlinspike", column "50% prob.").

192 Marlinspike does not have a full-time CEO. *See* RIGMORA00013895, at -897, "Nereid Therapeutics and Marlinspike Therapeutics Merger Memo, December 11, 2024"("Marlinspike does not have a full-time management team in place and has been operating with ATP Venture Partners as interim CEO and interim CSO.").

193 ATP_00012157, at -173, Marlinspike Investment Memorandum

194 Paul Da Silva Jardine Dep. Tr. (Aug. 4, 2025), 223:23–224:3 ("A. Non-AS helicase program ready to initiate. I literally don't know that was referring to back in the IM at that time. Let's see, first non-AS helicase program ready to initiate. No, it's not ready to initiate yet."); *id.* at 107:9–107:12 ("We decided on -- in one of the programs listed here [in the investment memorandum] that it was too difficult, we're moving forward too slowly, so we decided to stop that program.").

digests. In some instances, the digests repeat verbatim from the previous quarter, indicating a lack of deliberate review, attention to detail, and meaningful progress.[195] One update simply states that there were "[n]o significant changes since the prior quarter,"[196] despite the fact that an additional $3.3 million was invested into the company over the same period.[197] These instances raise concerns about the rigor and reliability of the reporting process.

97. In summary, Marlinspike has not achieved all of the tranche 2 milestones, and its significant delay in bringing any drug candidate to the IND application stage and limited visibility into certain key programs raise concerns about its near-term progress and readiness for continued investment.[198] Therefore, I believe it was reasonable for Rigmora to cease funding this investment.

G. RED QUEEN THERAPEUTICS

98. Red Queen Therapeutics ("Red Queen") was founded in 2021 and is headquartered in Cambridge, Massachusetts.[199] According to the company, it is developing accessible treatments for viral illnesses, such as coronaviruses, using its "stapled lipopeptide technology."[200] These inhibitors would prevent viruses from entering healthy cells by blocking virus-cell fusion (the

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195 *See* Appendix C.6, Q3 2022 to Q1 2023.

196 Appendix C.6, Q4 2023.

197 As of Q3 2023, ATP had invested $11.43 million into Marlinspike. As of Q4 2023, the investment to date was $14.73 million. *See* ATP_00005698, at -702, ATP Quarterly Digest, Third Quarter 2023; ATP_00005593, at -596, ATP Quarterly Digest, Fourth Quarter 2023.

198 Between Marlinspike and ATP there also appeared to be uncertainty related to the viability of the company and whether it was a worthwhile investment. *See* Paul Da Silva Jardine Dep. Tr. (Aug. 4, 2025), 224:10–225:3 (Q. Did Dr. Harrison express the view as to whether additional funds should be invested in Marlinspike? A. His -- his view was that we need to provide data that prove to him that it was worth investing more. Q. And so his view was that without that data, it would not be worth investing more funds in Marlinspike? . . . A. He -- he wanted to see whether -- he would make -- whether there was -- we had to convince him that we had made sufficient progress to warrant keep investing in it. Q. Were you able to convince him that Marlinspike had made sufficient progress to warrant additional investments? . . . A. We -- we never got the chance.").

199 *Red Queen*, PitchBook, https://pitchbook.com/profiles/company/550938-07#overview (last visited Aug. 15, 2025).

200 *Red Queen Therapeutics*, LinkedIn, https://www.linkedin.com/company/red-queen-therapeutics/ (last visited Aug. 4, 2025); *Red Queen Therapeutics Announces Expanded Licensing Agreement, Progress in Its Pan-*Influenza Program, Apple Tree Partners (Dec. 3, 2024), https://www.appletreepartners.com/news/514?utm_source (last visited Aug. 4, 2025) ("Red Queen Therapeutics, a clinical-stage biotechnology company applying a proprietary stapled lipopeptide technology to develop new treatments for COVID-19, influenzas, and other viral illnesses . . . .").

way that viruses enter cells).[201] Red Queen envisions that its antivirals will offer several advantages over traditional antivirals, including suitability for immunocompromised patients and convenient self-administration.[202]

99. The Fund began investing in Red Queen in the second half of 2021,[203] with an initial budget of $55 million, to be deployed in five tranches over approximately 1.5 years, as outlined in the 2021 Investment Memorandum (the "Red Queen 2021 Investment Memorandum").[204] From Q2 2021 to Q1 2025, Red Queen received $27.6 million from the Fund,[205] drawing tranches 1 through 3 in full and one-half of tranche 4. On May 30, 2025, ATP called an additional $6.4 million of capital from Rigmora, which I understand may not have been paid but would have brought the total investment to $34 million, pushing Red Queen into tranche 5.[206] Yet, Red Queen has not made meaningful progress on two of the three programs that were required to unlock funding for tranches 3 to 5. Moreover, the only program for which Red Queen has shown progress – an antiviral therapy against SARS-CoV-2 (COVID-19) – appears to be losing support from ATP managing partner Dr. Seth Harrison and has not attracted third-party investors, despite ATP's efforts.[207] Given uncertainty regarding the commercial viability of the COVID-19 program, Dr. Harrison, has proposed to "freeze dry" the company.[208] Red Queen's Chief Scientific Officer,

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201 Red Queen Therapeutics, https://redqueentx.com/index.html (last visited Aug. 15, 2025) ("Red Queen develops therapeutics based on a novel stapled lipopeptide platform technology that blocks virus-cell fusion—the way in which all enveloped viruses, including many of the most dangerous human pathogens, enter cells.").

202 Red Queen Therapeutics, https://redqueentx.com/index.html (last visited Aug. 15, 2025) ("Act upon a core mechanism of the virus, without relying upon immune system activation to work (lending them to use in immunocompromised people)"; "Be formulated as nasal spray, inhaler, or injection, for quick and easy self-administration anytime, anywhere.").

203 The initial investment date is noted as October 2021 in the Quarterly Digests. *See* ATP_00004667, at -681, ATP Quarterly Digest, First Quarter 2025. Note, however, that the initial investment date appears as August 2021 in the consolidated financial statements for ATP Life Science Ventures, L.P. *See* ATP_00012073, at -074, "ATP Life Science Ventures, L.P. and Subsidiaries, Consolidated Statement of Assets, Liabilities and Partners' Capital, As of March 31, 2022".

204 RIGMORA00000457, at -461, Red Queen Investment Memorandum.

205 *See* ATP_00004667, at -681, ATP Quarterly Digest, First Quarter 2025

206 ATP_00003918, May 30, 2025 Red Queen Capital Call.

207 ATP_00125491, at -492 (Jardine Deposition Ex. 12), Email from S. Harrison to P. Eisenberg and others re: "Re: Capital calls for RQ." dated February 27, 2024("I [Seth Harrison] understand how grey pocs [proofs of concept] are pushed ahead, and the need to nurture companies through missed milestones, but in this particular case, covid is stale, even resented as an indication, and this is no time in the fund to be pushing a mega-expensive project uphill.").

208 ATP_00117896, at -899 (Jardine Deposition Ex. 28), Email from S. Harrison to P. Da Silva Jardine and others re: "URGENT: need forecast for remaining of all budgets." dated March 11, 2025.

Dr. Jardine, interpreted this to mean that ATP "would not be trying to develop the asset further at that point."[209] Figure 11 summarizes the budget proposed in Red Queen's 2021 Investment Memorandum, the associated milestones, and the company's progress to date.

[209] Paul Da Silva Jardine Dep. Tr. (Aug. 4, 2025), 310:10–21 ("Q. Okay. Did you have an understanding of what Dr. Harrison meant by 'freeze dry the asset'? A. . . . I assume he meant that we would not be trying to develop the asset further at that point. Q. But by budgeting a million dollars for Red Queen, would it be possible to preserve that intellectual property and other aspects of that company? A. Yes.").

FIGURE 11: RED QUEEN MILESTONE COMPLETION

	Milestone (as per Investment Memorandum) [A]	**Expected Completion** [B]	**Actual Completion** [C]	**Status of Milestone** [D]
	Tranche 1 ($5 million)			
[1]	Initial close series A	Aug-21	Oct-21	Completed
	Tranche 2 ($7 million, cumulative $12 million)			
[2]	SARS-CoV HR2 to nominate development candidate	Dec-21	Q3 2021	Completed
[3]	RSV HR2 to start Lead candidate development	Dec-21	Q4 2022	Completed late
[4]	Pandemic Library work to start	Dec-21	Unclear	Unclear
	Tranche 3 ($10 million, cumulative $22 million)			
[5]	SARS-CoV HR2 to file IND	Apr-22	Aug-23	Completed late
[6]	SARS-CoV HR2 to start Ph 1 SAD (Challenge Trial) involving Dose Find	Apr-22	Q3 2023	Completed late
[7]	RSV HR2 to nominate development candidate	Apr-22	Not mentioned	Incomplete, significantly delayed
[8]	Pandemic Library to complete 5 binding hits (in 40%)	Apr-22	Unclear	Unclear
	Tranche 4 ($11 million, cumulative $33 million)			
[9]	SAR-CoV HR2 to complete 65% Ph 1 SAD (Challenge Trial) involving Dose Find	Sep-22	Q3 or Q4 2023	Completed late
[10]	RSV HR2 to complete 60% Pre-IND process	Sep-22	Not mentioned	Incomplete, significantly delayed
[11]	Pandemic Library (2 DC Noms) to complete 90%	Sep-22	Unclear	Unclear
	Tranche 5 ($22 million, cumulative $55 million)			
[12]	SAR-CoV HR2 to complete 100% Ph 1 SAD (Challenge Trial) involving Dose Find with a target of 80% reduction in viral load	Feb-23	Q1 2024	Completed late
[13]	SAR-CoV HR2 to be ready for Ph 2-3 adaptive (Prevention Trial)	Feb-23	Not mentioned	Incomplete, significantly delayed
[14]	RSV HR2 to be ready for Dose Find	Feb-23	Not mentioned	Incomplete, significantly delayed

Notes and Sources:

"Unclear" means it is not clear what the milestone language refers to.

"Incomplete" means not met as of Q1 2025.

"Completed late" means completed more than one quarter after the expected completion of the milestone.

[A], [B]: RIGMORA00000457, at -461, Red Queen Investment Memorandum.

[C], [D]:

[2]: This is based on the following language in the ATP quarterly digests: "A potent clinical candidate has been selected that completely prevents SAR-CoV-2 infection of cells at less than 150nM concentration." *See* Appendix C.7, Q3 2021.

[3]: This is based on the following language in the ATP quarterly digests: "Finally, a potential clinical candidate anti-RSV peptide was identified." *See* Appendix C.7, Q4 2022.

[4], [8], [11]: Unclear progress given that the milestone was not mentioned in quarterly digests and Dr. Jardine does not recall the pandemic library work. *See* Paul Da Silva Jardine Dep. Tr. (Aug. 4, 2025), 157:5–9.

[5]: This is based on the following language in the ATP quarterly digests: "FDA approval was received on August 14." *See* Appendix C.7, Q2 2023.

[6]: This is based on the following language in the ATP quarterly digests: "Clinical trial RQ01-001 (POC) is underway with 10 subjects randomized and six sites now open." *See* Appendix C.7, Q3 2023.

[7], [10], [14]: ATP quarterly digests do not mention an anti-RSV candidate nomination, and, in his deposition, Dr. Jardine confirmed that no Red Queen programs (other than for SARS-CoV-2) have nominated a development candidate. *See* Paul Da Silva Jardine Dep. Tr. (Aug. 4, 2025), 157:23–158:12 and 159:3–15. As such, the RSV program has not made progress on tranche 4 or tranche 5 milestones.

[9]: This is based on the following language in the ATP quarterly digests: "Dosing and follow up for the proof-of-concept clinical trial . . . is now complete." *See* Appendix C.7, Q4 2023.

[12]: *See Clinical Trial to Evaluate the Safety of RQ-01 in SARS-CoV-2 Positive Subjects, Results Submitted*, NIH – National Library of Medicine, https://clinicaltrials.gov/study/NCT06063330?term=%22Red%20Queen%22&rank=1&tab=results (last visited Aug. 12, 2025).

100. As shown in Figure 11, Red Queen initially envisioned three projects: SARS-CoV-2 (COVID-19) HR2,[210] RSV HR2,[211] and "pandemic library." Despite having drawn more than half of its funding budget, Red Queen has only made meaningful progress on one project, SARS-CoV-2.

a. Regarding the pandemic library, it is unclear to me what this project entails. And Red Queen's Chief Scientific Officer, Dr. Jardine, did not recall the "pandemic library" work in his deposition.[212] Based on my review, it does not seem to be discussed in the quarterly digests, and there is no indication of active development or milestone achievement.

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[210] Note that Figure 11 refers to SARS-CoV-2 HR2 as "SARS-CoV HR2".

[211] RSV refers to Respiratory Syncytial Virus, a common respiratory virus that infects the nose, throat, and lungs. *See* RIGMORA00000457, at -459, Red Queen Investment Memorandum; *About RSV*, U.S. Centers for Disease Control and Prevention, https://www.cdc.gov/rsv/about/index.html#:~:text=Respiratory%20syncytial%20virus%2C%20or%20RSV,along%20with%20other%20respiratory%20viruse (last visited Aug. 14, 2025).

[212] Paul Da Silva Jardine Dep. Tr. (Aug. 4, 2025), 156:25–157:9 ("Q. . . . Have the milestones associated with the 7 million tranche amount been achieved? A. . . . the pandemic library, don't know what that was referring to. I don't remember what that was referring to.")

b. Regarding the RSV HR2 program, Red Queen has fallen substantially behind schedule, with limited details discussed in the quarterly digests. In Q4 2022, the company reported that it had identified an anti-RSV peptide as a potential clinical candidate.[213] And in Q1 2023 it was briefly mentioned that testing was ongoing for RSV and a group of other viruses,[214] although no detail was provided on the type of testing or its results. I also did not see updates relating to development candidate nomination or pre-IND application preparation – milestones that were necessary to unlock tranches 3 and 4. Overall, it does not appear that the RSV-HR2 program has achieved any of its planned milestones for tranche 3, tranche 4, or tranche 5. This is consistent with testimony from Dr. Jardine confirming that Red Queen has not nominated a development candidate for RSV as of August 2025.[215]

c. While Red Queen has completed its earlier milestones associated with the SARS-CoV-2 project (albeit with delays), it is significantly behind on the last milestone for this project (see row [13] in Figure 11). This milestone was expected to be completed in February 2023. Yet, it is still not achieved. As of Q4 2024, Red Queen had only started discussing the proposed trials with the FDA as well as transferred manufacturing capabilities to a new supplier.[216]

101. Despite Red Queen's progress on the SARS-CoV-2 program, I understand that some of ATP's leadership, including managing partner Seth Harrison, has expressed concern about the limited commercial potential and cost efficiency of the program. Dr. Harrison specifically wrote in February 2024 that "covid is stale, even resented as an indication, and this is no time in the fund to be pushing a mega-expensive project uphill."[217] Indeed, throughout 2024 and 2025, Red Queen has not succeeded in attracting industry partners to invest in the program, despite efforts

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213 ATP_00011853, at -866, ATP Quarterly Digest, Fourth Quarter 2022.

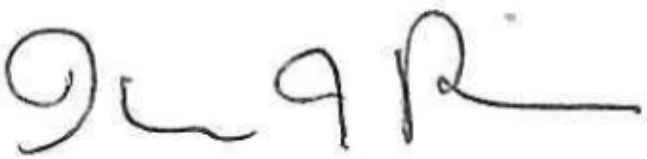
214 ATP_00005929, at -942, ATP Quarterly Digest, First Quarter 2023.

215 Paul Da Silva Jardine Dep. Tr. (Aug. 4, 2025), 159:13–15 ("Q. So it [a development candidate other than for SARS-CoV-2] has not yet been nominated, correct? A. It has not yet been nominated.")

216 ATP_00004868, at -882, ATP Quarterly Digest, Fourth Quarter 2024. In Q3 2024, the company had only begun discussions with the FDA about the proposed phase 2 trial and in Q4 2024, the company successfully transferred production of the lead program from a prior supplier, a necessary condition for phase 2 trials. *See Apple Tree Partners Launches Red Queen Therapeutics to Bring Potentially Lifesaving Treatments to People at Greatest Risk from Viral Infections*, Red Queen Therapeutics, https://www.redqueentx.com/posters/Apple-Tree-Partners-Launches-Red-Queen-Therapeutics-to-Bring-Potentially-Lifesaving-Treatments-to-People-at-Greatest-Risk-from-Viral-Infections_August-6-2024.pdf (last visited Aug. 4, 2025).

217 ATP_00125491, at -492 (Jardine Deposition Ex. 12), Email from S. Harrison to P. Eisenberg and others re: "Re: Capital calls for RQ." dated February 27, 2024.

to do so.[218] Further, in December 2024, when ATP was required to allocate a roughly $3.8 million budget reduction across its portfolio companies, ATP chose to apply the full reduction to Red Queen – a decision that effectively reflected ATP's own decision to reallocate capital away from this company.[219] In light of Red Queen's stalled progress, lack of commercial prospects, and clear signs of skepticism from ATP internally, there are significant concerns about continued investment. In that context, it was reasonable for Rigmora to cease funding this investment.



Ilonna Rimm, MD PHD CFA

[218] Paul Da Silva Jardine Dep. Tr. (Aug. 4, 2025), 201:15–17, 202:14–15 ("Q. . . . Were those business development efforts successful in 2024? A. They were not. . . . Q. . . . [A]re those efforts ongoing? A. They are always -- always ongoing . . . .")

[219] RIGMORA00007788, Email from D. Finkelman to P. Blochlinger and others re: "Budget Reductions" dated December 12, 2024.

APPENDIX A: CURRICULUM VITAE OF ILONNA RIMM, MD PHD CFA

Curriculum Vitae

Ilonna Rimm, MD PhD CFA



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Websites:
https://www.rimmhca.com/
https://www.morninglightcap.com/

Summary:
Ilonna Rimm, MD PhD CFA, is a healthcare investor who provides strategic advice on raising early-stage capital. As the CEO and Founder of Morninglight Healthcare Capital, LLC, a family office, she invests in small cap public companies (0 to $4B market cap). She also serves as an Advisor to Life Sciences CEO's who are raising a Seed or Series A Round of capital, as Rimm Healthcare Capital Advisory, LLC. She recently provided services to Immuneering Corp., who raised a Series A round of $20M in January, 2020, and a Series B round of $62M in January, 2021. Immuneering is now a public company (IMRX). Ilonna currently works as a Financing Expert at the Harvard Innovation Lab, which is associated with Harvard Business School. Ilonna's advisory skills were developed during twenty years of Financial Services work on the buy and sell side of public equity, the buy side of private equity and in the pharmaceutical industry.

Her LinkedIn page is here: https://www.linkedin.com/in/ilonna-rimm-md-phd-cfa/

Professional Positions in Finance and Industry:

2021 Rimm Healthcare Capital Advisory LLC is the amended name of Expertise for Innovation Consulting LLC

2016 Founder, Portfolio Manager, Morninglight Healthcare Capital LLC, Newton, Massachusetts

2016 Contracting Consultant, Disability Determination Services, Massachusetts Rehabilitation Commission, Social Security Administration, Boston, Massachusetts (Start date: Sept. 19, 2016)

2015 Managing Director, Expertise for Innovation Consulting LLC Newton, Massachusetts

2013 Research Analyst, Trillium Asset Management, Boston, Massachusetts

2012 Managing Director, Expertise for Innovation Consulting LLC
Newton, Massachusetts

2007 Director of Physician Consultation Services, Senior Vice President,
Lazard Capital Markets, Boston, Massachusetts

2006 Director, Institutional Consulting, Leerink Swann and Company
Boston, Massachusetts

2005 Managing Director, Expertise for Innovation Consulting LLC
Newton, Massachusetts

2004 Executive-in-Residence, Oxford Bioscience Partners
Boston, Massachusetts

2003 Director, Licensing, Global Business Development, Wyeth Pharmaceuticals
Cambridge Massachusetts

2001 Director, Technology Licensing, Global Business Development, Wyeth
Pharmaceuticals, Cambridge Massachusetts

2001 Director of Business Development, Genomics, Wyeth
Cambridge, Massachusetts

2000 Director of Clinical Research, Genetics Institute, Cambridge Massachusetts

1997 Associate Director of Clinical Research, Genetics Institute,
Cambridge, Massachusetts

Narrative Report of Finance, Research, Teaching and Clinical Contributions.

Current Roles as CEO and Founder of Morninglight Healthcare Capital LLC and Rimm Healthcare Capital Advisory LLC.

Currently, I provide financial, medical and scientific expertise for life science investing and for raising capital. I provide advisory support for CEO's who are raising a Seed round or Series A round of financing. In addition, I work with CEO's on the development of an appropriate investment thesis and valuation. As an advisor, I identify sources of financing and make appropriate introductions. During the last five years, I have accelerated the financing process for two CEO's and provided financial advice for more than twenty CEO's. Prior to my current role, I worked on the Buy and Sell side of public equity and the Buy side of private equity, as detailed below.

Public Equity – Buy Side

Dr. Rimm's Buy Side experience in public equity includes her current role as the CEO and Founder of Morninglight Healthcare Capital LLC, a family office. Prior to that position, she had a role as a Healthcare Research Analyst at Trillium Asset Management, a socially responsible investing firm, where she led buy/sell decisions for 23 Healthcare equities on the Trillium Buy List. She managed more than $200 million and was recognized as an outstanding Analyst who contributed substantially to the success of the Trillium portfolios. She ranked first among all research analysts for alpha generation/stock picking, generating 383 basis points of excess return within the Healthcare Sector, during 2014. She also monitored the ESG (Environmental, Social, Governance) status of Healthcare Investments. Dr. Rimm completed the CFA designation in 2014.

Public Equity – Sell Side

Dr. Rimm has extensive experience on the sell-side of healthcare finance, where she held the Series 7, 63, 86 and 87 licenses. In the most recent sell-side position, she led the Physician Consultation Services at Lazard Capital Markets. In that role, she increased physician calls/events 6-fold and increased client attendance 9-fold. Prior to her Lazard position, Dr. Rimm was a Director at Leerink, Swann and Company (currently SVB Leerink), a Healthcare Investment Bank, where she analyzed clinical trial data with buy-side clients, generating increased revenues, and referred investment banking business to the firm.

Private Equity

Dr. Rimm worked as an Executive-in-Residence at Oxford Bioscience Partners, a life-science venture capital firm, where she advised General Partners on capital commitment decisions for Oxford Bioscience Partners IV Fund ($459 million) based upon analysis of clinical trial results. She participated in due diligence, valuation analysis, financial modeling, and term sheet negotiation

Merger and Acquisition Credentials

Dr. Rimm worked as a Director of Licensing and Technology Licensing in Global Business Development at Wyeth Pharmaceuticals. She negotiated contracts, led due diligence, and reviewed 200 companies in Oncology, Proteomics and Genomics. She led due diligence for oncology product licensing deals including anti-angiogenesis, antisense and platinum derivative drugs. Due diligence team members included senior executives from commercial, legal, clinical, preclinical and toxicology groups. Potential deals were valued at $100 million to $900 million.

Clinical Roles

During the clinical trials portion of my industry career, I initiated and completed several oncology and hematopoietic stem cell transplant trials. In a business development position, my role was related to technology and product in-licensing.

My previous teaching role was as a Teaching Attending Physician on the General Pediatrics

Service. During that time, I provided didactic material related both to General Pediatrics, Drug Development and Healthcare Innovation.

During my academic career, my research, teaching and clinical contributions were in the area of hematopoietic stem cell transplantation. The major contribution of the research career was a detailed exploration of the immunodeficiency disease that affects recipients of allogeneic hematopoietic stem cell transplants. In addition, novel cytokine therapy for this immunodeficiency disease was tested using a newly developed animal model. During twelve years of work on hematopoietic stem cell transplantation services, teaching and clinical contributions were provided.

Description of Clinical Practice

2001-2007	Teaching Attending Physician, Children's Hospital, Boston
1997-1999	Attending Physician, Pediatric Oncology Clinic, Dana-Farber Cancer Institute, Boston
1990-1997	Attending Physician, Bone Marrow Transplantation Service, Brigham and Women's and Children's Hospital, Boston
1989	Attending Physician, Inpatient Oncology Service, Children's Hospital, Boston

Clinical Research during Industry career

1997-2001 **Phase 1/2 Pediatric Dose Escalation Clinical Trial of rhIL-11.**
Enrolled 47 patients, determined "dose-limiting toxicity" and closed study.
Prepared three IND updates, interim safety report, final study report.

Phase 1 Clinical Trial for use of rhIL-11 in Allogeneic Stem Cell Transplantation.
IND submitted for new indication and protocol written.
Enrolled 13 patients and closed study.
IND update and final study report prepared.

Phase 1 Clinical Trial for use of Anti-B7 Antibodies in Bone Marrow Transplantation.
IND and Investigator Brochure submitted, protocol written.
Enrolled 5 patients and closed study.
IND update and final report submitted

Negotiation of IL-11 Pediatric Post-Licensure Commitment
Led multiple communications with FDA

Education:

2014 CFA (Chartered Financial Analyst) Charter #154171, August 12, 2014

		CFA Institute, Charlottesville, Virginia
1983	M.D. Ph.D.	Harvard University (Immunology), Boston, Massachusetts
1977		University of Wisconsin Graduate School (Genetics), Madison, Wisconsin
1976	B.S. cum laude	University of Wisconsin, Madison, Wisconsin

Postdoctoral Training:

Internships and Residencies:

1983-1984	Intern in Pediatrics, Children's Hospital, Boston, Massachusetts
1984-1985	Junior Assistant Resident, Children's Hospital, Boston, Massachusetts

Clinical and Research Fellowships:

1985-1986	Clinical Fellow in Pediatric Oncology/Immunology, Children's Hospital and Dana-Farber Cancer Institute, Boston
1986-1988	Research Fellow in Pediatric Hematology/Oncology, Children's Hospital and Dana-Farber Cancer Institute, Boston

Licensure and Certification:

1986	Massachusetts License Registration
1989	American Board of Pediatrics Certificate
1990	American Board of Pediatric Hematology-Oncology Certificate
1997	American Board of Pediatric Hematology-Oncology Certificate Renewal

Academic Appointments:

1988	Instructor in Pediatrics, Harvard Medical School, Boston
1992	Assistant Professor of Pediatrics, Harvard Medical School, Boston

Hospital Appointments:

1988	Assistant in Pediatrics, Dana-Farber Cancer Institute, Boston

C. Report of Teaching:

1. Local contributions

a. Harvard Medical School

1998-2000 HST 160 (Human Genetics)
Preceptor
Two medical students
Four hours a year

2001-2005 IN550M.7B Women's and Children's Pediatrics Component at Children's Medical Center
Teaching Attending Physician
Four medical students
Fifty hours per year

b. Graduate Medical Courses at Children's Hospital

1989 Pediatric Oncology Inpatient Service
Attending Physician
Four residents
One hundred and sixty hours per year

1989-1999 Pediatric Oncology Outpatient Clinic
Attending Physician
Three to five fellows
One hundred to two hundred hours per year

1990-1997 Pediatric and Adult Bone Marrow Transplantation Service
Attending Physician
Two fellows, ten residents
Two hundred hours per year

2001-2007 General Pediatrics Service
Teaching Attending Physician
Four medical students, five residents
Fifty hours per year

2. Regional, national or international contributions

a. University of Wisconsin Graduate School, Madison, Wisconsin

1976 Genetics 560 - Elementary Genetics
Fifteen graduate students
One hundred hours per year

Professional Part III: Bibliography

Original Articles

1. Rimm IJ and Rimm AA. Association between socioeconomic status and obesity in 59,566 women. Preventive Medicine. 1974; 3:543-552.

2. Rimm IJ and Rimm AA. Association between juvenile onset obesity and severe adult obesity in 73,352 women. American Journal of Public Health. 1976; 66:479-481.

3. Rimm IJ, Schlossman SF, and Reinherz EL. Antibody dependent cellular cytotoxicity and a natural killer-like activity are mediated by subsets of activated T cells. Clinical Immunology and Immunopathology. 1981;21:134-140.

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APPENDIX B: DOCUMENTS RELIED UPON

Case Documents

- Exhibits 1 – 11 to Verified Complaint, *ATP III GP, LTD. v. Rigmora Biotech Investor One LP and Rigmora Biotech Investor Two LP*, May 30, 2025.

Depositions

- Deposition of Paul Da Silva Jardine, August 4, 2025.
- Deposition of Spiros Liras, August 12, 2025.
- Deposition of Seth Harrison, August 12, 2025.

Produced Documents

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- ATP_00003890
- ATP_00003893
- ATP_00003899
- ATP_00003902
- ATP_00003909
- ATP_00003915
- ATP_00003918
- ATP_00004656
- ATP_00004667
- ATP_00004868
- ATP_00005151
- ATP_00005423
- ATP_00005593
- ATP_00005698
- ATP_00005854
- ATP_00005929
- ATP_00008690
- ATP_00011853
- ATP_00011928
- ATP_00011991
- ATP_00012073
- ATP_00012157
- ATP_00012188
- ATP_00012218
- ATP_00015750
- ATP_00015834
- ATP_00016129
- ATP_00022139
- ATP_00028644
- ATP_00032045
- ATP_00039676
- ATP_00039677
- ATP_00066032
- ATP_00089183
- ATP_00089198
- ATP_00089254
- ATP_00089527
- ATP_00113187
- ATP_00117896
- ATP_00119271
- ATP_00119275
- ATP_00119573
- ATP_00125491
- ATP_00396570
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APPENDIX C: PORTFOLIO COMPANY QUARTERLY UPDATES[220]

C.1 AETHON THERAPEUTICS

Quarter	Company Progress Update
Q3 2022	• In vitro experiments have led to the discovery of bispecific antibodies that bind to the hapten-MHC complex and activate CD 3 T cells. Aethon's initial project focuses on combination therapy with the Amgen drug Lumakras (sotarasib), the first approved KRAS-targeting cancer therapy. • Aethon antibodies are expected to be useful in the setting of primary or acquired resistance to Lumakras. Even if tumors initially respond well, drug tolerant persisters or small reservoirs of intrinsically resistant cells could be eradicated by frontline combination of Lumakras/Aethon antibody administration. Moreover, the Aethon antibody has the potential to mitigate hepatic toxicity seen with Lumakras and of other covalent inhibitors, by allowing for dose reduction.
Q4 2022	• Aethon Therapeutics was established in December 2022 with co-founders Shohei Koide and Benjamin Neel, professors at the New York University Grossman School of Medicine and researchers at its Perlmutter Cancer Center. A public launch was successfully completely on January 9, 2023 and had considerable coverage in the life sciences media. • The company designs antibody drugs intended to be used concomitantly with covalent drugs to improve efficacy and prevent relapse. • Aethon specifically targets neoantigens created by the binding of irreversible covalent inhibitor drugs to cysteines on oncogenic targets such as RAS, EGFR, and

[220] The materials in Appendices C.1–C.7 are pulled directly from the ATP Quarterly Digest reports on each Portfolio Company dating from their first inclusion in the Digests. The earliest such citation is for Initial from the Q2 2020 digest, so the full set of documents these appendices pull from is as follows: ATP_00016129, ATP Quarterly Digest, Second Quarter 2020; ATP_00032045, ATP Quarterly Digest, Third Quarter 2020; ATP_00015834, ATP Quarterly Digest, First Quarter 2021; ATP_00015750 , ATP Quarterly Digest, Second Quarter 2021; ATP_00012188, ATP Quarterly Digest, Third Quarter 2021; ATP_00028644, ATP Quarterly Digest, Fourth Quarter, 2021; ATP_00113187, ATP Quarterly Digest, First Quarter 2022; ATP_00011991, ATP Quarterly Digest, Second Quarter 2022; ATP_00011928, ATP Quarterly Digest, Third Quarter 2022; ATP_00011853, ATP Quarterly Digest, Fourth Quarter, 2022; ATP_00005929, ATP Quarterly Digest, First Quarter 2023; ATP_00005854, ATP Quarterly Digest, Second Quarter 2023; ATP_00005698, ATP Quarterly Digest, Third Quarter 2023; ATP_00005593, ATP Quarterly Digest, Fourth Quarter, 2023; ATP_00005423, ATP Quarterly Digest, First Quarter 2024; ATP_00008690, ATP Quarterly Digest, Second Quarter 2024; ATP_00005151, ATP Quarterly Digest, Third Quarter 2024; ATP_00004868, ATP Quarterly Digest, Fourth Quarter, 2024; ATP_00004667, ATP Quarterly Digest, First Quarter 2025.

	BTK. The resulting peptides are haptens – peptides that include the oncogenic peptide conjugated to the drug. • In vitro experiments have led to the discovery of bispecific antibodies that bind to the hapten-MHC complex and activate CD 3 T cells. • Aethon's initial project focuses on combination therapy with the Amgen drug Lumakras (sotarasib), the first approved KRAS-targeting cancer therapy. • Aethon antibodies are expected to be useful in the setting of primary or acquired resistance to Lumakras. Even if tumors initially respond well, drug tolerant persisters or small reservoirs of intrinsically resistant cels could be eradicated by frontline combination of Lumakras/Aethon antibody administration. • Moreover, the Aethon antibody has the potential to mitigate hepatic toxicity seen with Lumakras and of other covalent inhibitors, by allowing for dose reduction. • Aethon is receiving interest from a wide range of potential strategic partners including Amgen, Mirati, Lilly, GenMab, and Bristol-Myers Squibb.
Q1 2023	• Aethon is progressing its initial project focused on combination therapy with the Amgen drug Lumakras (sotarasib), the first approved KRAS-targeting cancer therapy, and the Mirati compound Krazati (adagrasib). • Aethon recruited and onboarded a CTO and two other employees and moved to new laboratories in Long Island City, NY. • The company is testing 20 formats of bispecific antibodies, some designed by the unique Cro-EM structure discovered in collaboration with NYU. • Aethon is receiving interest from a wide range of potential strategic partners including Amgen, Mirati, Lilly, Revolution Medicines, and Genentech.
Q2 2023	• Aethon progressed its initial project, a novel antibody designed to be used in combination with either of the two currently approved KRAS-targeted therapeutics Lumakras (Amgen) or Krazati (Mirati), to selectively kill drug-resistant cancer cells. • The company is testing 20 formats of bispecific antibodies, some designed by the unique Cryo-EM structure discovered in collaboration with NYU. • During its first six months of operation, Aethon recruited and onboarded a Chief Technology Officer and six other employees and moved to new laboratories in Long Island City, NY, which are now fully functioning. • Aethon is actively involved in strategic partnership conversations with interested parties including Mirati, Lilly, Revolution Medicines, and Genentech.

Q3 2023	• Aethon Therapeutics continued the development of its bispecific antibodies to be used in combination with KRAS-targeting cancer therapy, namely the approved agents Lumakras (Amgen) and Krazati (Mirati); these Aethon programs have now moved to in vivo trials. • The collaboration with NYU has allowed Aethon to also obtain early indication of potential use of its technology platform with other KRAS inhibitors in development, notably divarasib from Genentech/Roche. • Aethon is now fully established in Long Island City, NY, with eight laboratory scientists overseen by its Chief Technology Officer. • Conversations continue with several companies - Amgen, Mirati (soon to be BMS), Genentech, Novartis - towards strategic partnerships, and terms have been agreed for a collaboration agreement with Revolution Medicines, bringing the Aethon platform to Revolution's KRAS G12C and G1D-targeting drugs.
Q4 2023	• Aethon Therapeutics continued the development of its bispecific antibodies to be used in combination with KRAS-targeting cancer therapy, namely the approved agents Lumakras (Amgen) and Krazati (Mirati); these Aethon programs have now moved to in vivo trials and show in vivo proof of concept. • The collaboration with NYU has allowed Aethon to also obtain early indication of potential use of its technology platform with other KRAS inhibitors in development, notably divarasib from Genentech/Roche. • Aethon is now fully established in Long Island City, NY, with nine laboratory scientists overseen by its Chief Technology Officer. • Conversations continue with several companies - Amgen, Mirati (soon to be BMS), Genentech, and Novartis - towards strategic partnerships, and terms have been agreed for a collaboration agreement with Revolution Medicines, bringing the Aethon platform to Revolution's KRAS G12C and G1D-targeting drugs. It is expected that this agreement will be signed imminently.
Q1 2024	• Aethon Therapeutics continued the development of its bispecific antibodies to be used in combination with KRAS-targeting cancer therapy, namely the approved agents Lumakras (Amgen) and Krazati (Mirati); these Aethon programs have now moved to in vivo trials and show in vivo proof of concept.

	• The collaboration with NYU has allowed Aethon to also obtain early indication of potential use of its technology platform with other KRAS inhibitors in development, notably divarasib from Genentech/Roche. • Revolution Medicines and Aethon signed a multi-year collaboration agreement under which Aethon will discover novel bispecific antibodies designed for use in combination with Revolution Medicines' RAS(ON) inhibitors. The deal covers 2 Revolution Medicines programs, 1 targeting KRAS G12C and 1 targeting KRAS G12D. Under the agreement terms, Revolution Medicines will cover the full cost (estimated at $41.2M) of preclinical work conducted by Aethon on the programs. The deal also includes option-based potential payments for future development and commercialization activities with a total value of up to $940M, plus royalties. • Conversations also continue with Amgen, Genentech, and Novartis towards strategic partnerships. Aethon is now fully established in Long Island City, NY, with eleven laboratory scientists overseen by its Chief Technology Officer.
Q2 2024	• Aethon Therapeutics continued the development of its bispecific antibodies to be used in combination with KRAS-targeting cancer therapy, namely the approved agents Lumakras (Amgen) and Divarasib (Genentech); these Aethon programs have now moved to in vivo trials and show in vivo proof of concept. • The company has developed a proprietary phage library based on structural data from Aethon antibodies. This library, called AEthena, has >700 billion independent Fab-phages, enabling diversity to deliver HapImmune™ antibodies of high affinity, high specificity, and HLA-A cross-reactivity. • Aethon commenced the work to discover novel bispecific antibodies under its collaboration with Revolution Medicines; screening for antibodies will start in September 2024. • Conversations also continue with Amgen, AstaZeneca, and Kyowa-Kirin towards strategic partnerships. • Aethon is now fully established in Long Island City, NY, with 12 laboratory scientists overseen by its Chief Technology Officer.
Q3 2024	• Aethon advanced its discussions with Amgen regarding potential partnering on the sotorasib program and is currently awaiting feedback. BD discussions with Lilly, Incyte, and Novartis are also ongoing.

	• Aethon commenced the work to discover novel bispecific antibodies under its collaboration with Revolution Medicines; screening for antibodies started in October at Specifica and Aethon. • Hit matter for a best-in-class TP53 binder was obtained and the program is moving to lead optimization stage. • A plan for a pan-RAS inhibitor has been set in place, and immunopeptidomics experiments will start in November.
Q4 2024	• Aethon continued its work to discover novel bispecific antibodies under its collaboration with Revolution Medicines and now has binders from the Specifica screen for RMC6291 (G12C: HLAA3/A11 and A2 separately, common binders being sought now); screening is under way for RMC 9805. • In the pan-RAS inhibitor program, immunopeptidomics experiments have identified two cancer specific neoantigen peptides presented on MHC-1. Finally, • Aethon's best-in-class TP53Y200C binder continued to progress towards lead optimization. • On the BD front, Aethon has received a response from Amgen declining to partner on the sotorasib program but expressing openness to looking at new targets; Aethon leadership are planning to visit Amgen's site in Thousand Oaks in 1Q25. Additionally, Aethon has received new partnering interest from Ono and Taiho.
Q1 2025	• Aethon continued its work to discover novel bispecific antibodies under its collaboration with Revolution Medicines and now has binders from the Specifica screen for RMC6291 and RMC 9805 (G12C: HLAA3/A11 and A2 separately common binders being sought now and for G12D vs HLAA3/11 while HLAA2 is underway). • In the pan-RAS inhibitor program, immunopeptidomics experiments have identified two cancer-specific neoantigen peptides presented on MHC-1. Potent antibody-specific binders have been identified from Aethon's antibody library and conversion to TCE for cell kill experiments are in progress, with in vitro POC expected by mid-May. • Finally, Aethon's best-in-class TP53Y200C binder continued to progress through lead optimization and DC is still expected 4Q25. Covalent fragment binders to target cysteines in the multi p53 variant corrector program has been identified. Two high

	throughput screens have been established to screen larger libraries for more hits and HTSs will be completed this quarter. • Aethon is presenting at the American Association of Cancer Research (AACR) Annual Meeting in Chicago in a poster session on April 27 and an oral presentation on April 28. The presentations highlight Aethon's continued progress in advancing T cell engager therapies against drug-modified cancer targets.

C.2 APERTOR PHARMACEUTICALS

Quarter	**Company Progress Update**
Q1 2021	• Apertor Pharmaceuticals made significant progress in both advancing a product to development candidate status and building out its synthetic biology platform. The company executed an agreement with Isomerase, a UK-based microbial natural product CRO, to engineer industrial strains in order to produce Apertor's lead compounds, AP01 and AP03, for delivery in June. These two compounds, as well as two novel analogs, will be evaluated for their antiproliferative and cytokine release phenotypes via fluorescence-activated cell sorting (FACS) in human peripheral blood monocytes (PBMCs), with in vitro results anticipated in August. • Based on these data, selected compounds will be run in pharmacokinetic/pharmacodynamic (PK/PD) studies in a mouse model of experimental allergic encephalomyelitis, followed by evaluation in a CD40 colitis model; we anticipate complete results from these in vitro and in vivo experiments by early Q4. • Importantly, these experiments are powered to evaluate three distinct profiles of proliferation/cytokine release (regulatory T cells, T effector memory cells, and mitochondrial effects/autophagy) that will provide a solid biological rationale for indication selection (autoimmunity, vaccine enhancement, and lysosomal storage disorders, respectively). • Samantha Bucktrout, Ph.D., senior director of Research for the Parker Institute for Cancer Immunotherapy and a T cell biology expert, is working in an ad hoc advisory capacity with Apertor to design and execute this series of experiments.

	• To establish its synthetic biology platform, Apertor extended a position to co-founder Jay Keasling's post-doctoral student, Bo Pang, who made the initial polyketide synthase (PKS) constructs and generated AP01-AP0S; an 01 visa application is in progress. • The company has also hired two other synthetic biologists trained in top labs. The company has begun outfitting its labs at Smartlabs in South San Francisco, including leasing a triple quadrupole liquid chromatogram/mass spectrometer to enable the design, production, and fermentation of novel constructs in 2Q21. • In addition, Apertor has signed a sponsored research agreement (SRA) with R. Thomas Williamson, Ph.D., at the University of North Carolina Wilmington, to build nuclear magnetic resonance conformation analysis models that will inform docking studies with mechanistic target of rapamycin complex 1 (mTORCl), in consultation with James Mills and a 2Q21 computational chemistry hire. • Future directions for Apertor include developing new ideas for tissue targeting in consultation with Kevan Shokat, Ph.D., a professor at the University of California San Francisco and a Howard Hughes Medical Institute investigator, and another SRA with the University of California Berkeley and the Joint BioEnergy Institute to evaluate the genetics and fermentation of four novel natural product "molecular glues."
Q2 2021	• On June 25, 2021, Apertor filed two provisional patent applications claiming key composition of matter. • Kevan Shokat, Ph.D., professor of Cellular and Molecular Pharmacology at the University of California San Francisco and Chemistry at the University of California Berkeley and an investigator at Howard Hughes Medical Institute, joined the Apertor Scientific Advisory Board, and the company engaged Bill Faubion, M.D., a gastroenterologist at Mayo Clinic, to advise on early clinical strategy in Crohn's disease/ulcerative colitis. • In-house synthetic biology work is progressing to provide leading candidates for key in vitro and in vivo studies in 4Q21.
Q3 2021	• Apertor produced lead compound AP-07 and initiated in vitro studies in human peripheral blood monocytes at Charles River, UK, as well as in vivo pharmacokinetic studies at Vascumab with both AP-07 and AP-03; data are anticipated later in Q4.

	• Apertor hired key personnel in computational chemistry and fermentation. Paul DaSilva Jardine, Ph.D., and Samantha Bucktrout, Ph.D, joined the Board of Directors and the Scientific Advisory Board, respectively.
Q4 2021	• Definitive biological evaluation of leads AP07 and AP08 will be completed this quarter along with pharmacokinetic evaluation to assess compound developability. • New scaffolds of novel molecular glues of FKPB12 binders are emerging from the synthetic biology platform.
Q1 2022	• Recent results suggest that the Apertor leads AP03 and AP07 do not deliver an autoimmune modulation profile. The results from in vitro and in vivo work suggest that the compounds behave more like vaccine enhancers. There is a biochemical discrepancy with the in vivo results. • Additional studies in vivo with a broader dose range will be conducted. • The Apertor platform is yielding additional novel rapamycin analogs, and these are being profiled in autoimmune phenotypic studies. • Apertor is developing a parallel approach to generate 14.3.3 glues using its novel natural product scaffold. • Dan Nomura, a leading chemical biologist conducting advanced chemoproteomic research at UC Berkeley, has been recruited to the Apertor Scientific Advisory Board.
Q2 2022	• In vitro and in vivo data for AP03 support its evaluation as clinical candidate for vaccine enhancement. A target product profile will be generated for vaccine enhancement ahead of advancing the compound further. • Novel compounds produced by the platform targeting FKB and FRAB interactions to deliver suitable agents for autoimmune disorders are under pharmacology evaluation. • A head of biology with expertise in immunology has been hired.
Q3 2022	• Based on commercial assessment and input from KOLs, Apertor has discontinued further evaluation of AP03 for vaccine enhancement. • Current work is focused on the discovery and pharmacological evaluation of 4EBP-1 targeting compounds for autoimmune disorders. A landscape of autoimmune disorders and clinical development strategies along with target product profiles will be assembled. • In addition, work has commenced to identify molecular glues of 14.3.3 proteins with p65 and cRAF based on the fusicoccin scaffold-targeting therapeutics for oncology.

Q4 2022	• Design of the initial series of heterobifunctional 4EBP-1 compounds has been completed and synthesis initiated, with evaluation of activity anticipated in late 1Q or early 2Q23. • Based on the pleiotropic effects of the pharmacology, the indication space has been expanded to include oncology. • A landscape of oncology indications plus autoimmune disorders and clinical development strategies along with target product profiles is being assembled. • Structure-based design is being utilized to produce molecular glues of 14.3.3 proteins with p65 and cRAF based on the fusicoccin scaffold. • Genes for fusicoccin production have been synthesized and pathway construction in yeast has been initiated. • Relocation to a 13,500 square foot facility in Alameda, CA is commencing in January 2023. • The venture firm Canaan has expressed interest in discussing Apertor under CDA, specifically the concept of mTORC1 vs. mTORC2 selectivity and full inhibition of 4E-BP1 as a potential therapy for tuberous sclerosis complex and related brain disorders.
Q1 2023	• Comprehensive analysis of oncologic and autoimmune diseases was conducted in collaboration with the ATP Commercial Group: considering biological rationale, unmet medical need and competitive landscape, Apertor's initial focus will be on renal cell carcinoma with potential for expansion into lupus nephritis. Heterobifunctional 4EBP-1 compounds have been delivered, and evaluation of p4E-BP1 inhibition and mTORC1 selectivity in 1o human T cells, RCC and non-RCC cell lines will proceed in 2Q2023. • Cost-effective scale-up at Huida Biotech of key propriety synthetic biology cores with altered FRB binding for inclusion in second generation 4E-BP1 heterobifunctional designs have also been delivered. • Relocation to Alameda, CA, is complete, with downtime limited to two weeks, and new tissue culture facilities coming on line shortly thereafter. • Access to key intermediates of fusicoccin (the molecular glue for 14.3.3 proteins with p65 and cRAF) has been accelerated via sourcing of a high-producing fungus. • With key data anticipated in 2Q2023, Apertor will accelerate preparations to engage in conversations under CDA with multiple partners interested in the 4E-BP1 project

	(Canaan, Bayer, Sanofi, Abbvie, Orbimed) and/or the proximity-inducer platform (Lilly, Amgen, Ono, Pfizer).
Q2 2023	• The first series of compounds has been evaluated for 4-EBPl phosphorylation inhibition. AP-149 has been identified as a 4-EBPl phosphorylation inhibitor with cell killing activity in renal carcinoma cell lines. • A second series of compounds, designed for improved potency based on the selection of warheads, will be evaluated in vitro in August. PK studies with optimized leads will be conducted to explore dosing regimen. The compounds are projected to be injectable agents and a long half-life is desired. • In the 1433 fusicoccin A project biological evaluation in vitro measuring impact on NFKB has shown biological effect for modulating the interaction of 1433 with cRAF, an important oncology target. Structural biology and computational studies are guiding design to deliver fusicoccin analogs with increased potency in gluing the 1433 cRAF interaction. Two dimensions of the synthetic biology platform have been developed. The polyketide synthase platform is producing novel FKBP binders which can be used as building blocks for heterobifunctional molecules, analogous to RIPTACs. • A preclinical proof of concept study with ARV and beta will be executed in 4Q 2023. The terpene arm of the synthetic biology is focused on the production of novel fusicoccin analogs as monovalent glues. • Business development discussions suggest strong interest in the platform to produce novel pharmacophores.
Q3 2023	• The first series of compounds has been evaluated for 4-EBPl phosphorylation inhibition. AP-149 has been identified as a 4-EBPl phosphorylation inhibitor with cell killing activity in renal carcinoma cell lines. • A second series of compounds, designed for improved potency and selectivity versus mTORC2/pAKT based on the selection of warheads, will be evaluated in vitro in 4Q 2023 in RCC models as well as models for potentially other indications in NSCLC and breast cancer. • PK studies with optimized leads will be conducted to explore dosing regimen. The compounds are projected to be injectable agents and a long half-life is desired. • In the 1433 fusicoccin A project, a systematic query of potential target opportunities from the team has delivered a handful of oncology targets associated with unmet

	clinical needs, including those involved in KRAS signaling (CRAF) and DNA damage response (P53). • Structural biology and computational studies are guiding design to deliver fusicoccin analogs with either increased potency for inactivating CRAF or conversely for promoting p53 activity. • Two dimensions of the synthetic biology platform have been developed. The polyketide synthase platform is producing novel FKBP binders which can be used as building blocks for heterobifunctional molecules, analogous to RIPTACs. The terpene arm of the synthetic biology is focused on the production of novel fusicoccin analogs as monovalent glues and/or anchor ligands for novel heterobifunctionals.
Q4 2023	• Regarding the 4-EBPl project, Apertor is advancing the AP-414 series to in vivo studies in multiple cancer xenografts in 1Q2024. Current research is focused on improving selectivity versus mTORC2 via the application of synthetic biology for novel macrocycle discovery and limited investment on linker design. Apertor is projecting its first development candidate nomination by 4Q2024. • A clinical development strategy has been developed to seek a monotherapy POM in renal carcinoma and in combination with belzutifan, with subsequent expansion into mutant Pl3K BC and mutant KRAS nonsmall cell lung cancer. • For the 14-3-3/cRAF/p65 project, current activity is focused on AP-117 series expansion to identify compounds that bind p53 to 14-3-3 to prevent its MDM2-mediated degradation and promote its tetramerization and binding to DNA. • Apertor is also preparing a library of novel fusicoccins to immunoprecipitate 14-3-3 interactome for novel target ID. With in vivo efficacy demonstrated in the AP-414 series the company will initiate active discussions with venture groups and corporate partners. • At the recent J.P. Morgan Healthcare Conference (JPM), the company had productive interactions with pharma groups active in the heterobifunctional/glue space including Lilly, J&J, Pfizer, Roche, Novartis, and Sanofi. All are reviewing the non-confidential company information.
Q1 2024	• Regarding the 4E-BP1 project, AP-414 showed improved efficacy at 5 mg/kg (weekly dosing) vs. the same dose of RMC-5552 in an MCF7 mouse xenograft model, likely as a function of improved exposure. Biomarkers from this experiment showed complete ablation of phospho-4E-BP1 and sparing of phospho-AKT in

	tumors. Sparing of AKT signaling in muscle tissue, a homeostatic regulator of blood sugar levels, was also noted in this study. • Additional compounds in the AP-414 series are currently being evaluated in vitro for improved potency and scalability, with the aim of advancing the final candidate to additional xenograft and safety studies in 2Q and candidate nomination by 4Q2024. The clinical development strategy (monotherapy POM in renal carcinoma and in combination with belzutifan, with subsequent expansion into mutant Pl3K breast cancer and mutant KRAS non-small cell lung cancer) will be further refined via KOL discussions in 2Q and will be used to assemble a compelling pre-clinical in vivo data package. • In the FKBP interceptor project, Apertor has demonstrated proof-of-concept by inducing proximity of FKBP12 to Bruton's tyrosine kinase (BTK) using a novel heterobifunctional compound as a potential means to sterically occlude surrogate kinase recruitment, as seen in resistance to traditional BTK catalytic inhibitors. Input from the Scientific Advisory Board suggests this could be an attractive and untested approach to disrupting RAF/RAS signaling. • For the 14-3-3 interceptor program, current activity is focused on AP-117 series expansion to identify novel therapeutic target opportunities using proteomics approaches. • With in vivo efficacy demonstrated in the AP-414 series, the company has begun active discussions with venture groups and corporate partners including J&J, Debiopharm, and Versant.
Q2 2024	• In the quarter, Apertor continued to advance its lead program, a 4E-BP1 inhibitor in cancers. To better align pre-clinical investments with the projected clinical development plan, the company has reached out to key opinion leaders in renal cell cancer (James Brugarolas, UTSW), uterine corpus endometrial carcinoma (Pierre Heudel, Centre Leon Berard), and tuberous sclerosis (Francis McCormack, UCincinnati). These interactions support the prioritization of certain pre-clinical drug combination studies and have enabled Apertor to address anticipated competing first-line therapeutic options in each of these diseases. • Progress in Apertor's second program, an FKBP interceptor, includes the generation of novel HBFs that arm proprietary ligands engaging oncology targets (i.e. CDK2 and CRAF) that recruit host FKBP proteins to obstruct cancer-promoting protein-

	protein interactions. Using proteomics approaches as well as targeted co-immunoprecipitation assays, company scientists are systematically evaluating the impact of these molecules on the target protein interactome in cancerous cells. • In addition, Apertor is completing its initial survey for potential oncology relevant targets that may be selectively impacted by its AP-117 series of 14-3-3 interceptor molecules.
Q3 2024	• The mTORC1/4E-BP1 project is on track to nominate a development candidate (DC) in 4Q24. • Additional compounds in the AP-414 series employing AP14 as an anchor ligand were evaluated in vivo but found to be inferior with respect to tumor growth inhibition to AP-414, which employs AP01 as the anchor ligand. • A repeat MCF7 (breast) xenograft study is underway with finalist compounds, including AP-414, in parallel with the first RCC xenograft study (orthotopic or subcutaneously deposited 786-O cells with HIF2A inhibitor/belzutifan control). • A combination study is planned for December pending the outcome of the ongoing monotherapy RCC study, in time for planned discussions with Merck (and additional companies with HIF2A assets) in 1Q25. • An exploratory rat safety study, with final doses pending from Ceff in mouse studies, is planned for late November 2024. Scale-up of proprietary anchor ligand AP01 (30g) has been initiated with Apertor's CRO partner and will support ongoing formulation and IND-enabling studies post-DC nomination. • In the FKBP interceptor project, the company has demonstrated proof-of-concept by inducing proximity of FKBP12 to CDK family members using a novel heterobifunctional compound as a potential means to disrupt CDK2/CyclinE1 interactions. Additional CDK ligands with differentiating selectivity profiles are also currently being evaluated for their potential to serve as superior target ligands in a new heterobifunctional (HBF) series. • The company has begun rounds of discussion with potential corporate partners including Merck, Exelixis, AstraZeneca, Yuhan, BeiGene, J&J, and Lilly.
Q4 2024	• The mTORC1/4E-BP1 project team will nominate AP-414 as a development candidate (DC) in 1Q25, having completed a series of tumor growth inhibition studies with strong corroboration of activity with biomarker response (ie 4E-BP1 phosphorylation). Initial rodent DMPK and tolerability studies support this

	nomination. Ongoing studies to solidify Phase 1/18 plans incorporate patient- and cell-derived xenograft models of lung adenocarcinoma (STK11 LOF/KRAS GOF) and squamous cell carcinoma (PIK3CA amplification), where PIK3 inhibitors have largely failed to manage either disease. • Apertor continues to investigate the advantages of combining its DC with an FDA-approved HIF2 inhibitor (Belzutifan) in xenograft models of clear cell renal cell carcinoma. • Apertor made progress towards achieving clinical-scale yields of AP414 with the delivery of the first lot of the anchor ligand f from a production-scale fermentation run by a qualified CRO partner. • The company has also established a fast-cycling workflow for evaluating novel heterobifunctional (HBF) molecules designed to obstruct oncogenic driver function by recruiting FKBP proteins. Having successfully incorporated the new capabilities (i.e. quantitative proteomics, and in vitro and cellular assays for monitoring target activity) to prosecute CRAF and CDK2, Apertor continues to evaluate additional HBF/target pair opportunities. • Apertor has engaged in BD discussions with Merck and preliminary interactions with venture groups including Orbimed and Ridge back.
Q1 2025	• Leadership has obtained BOD endorsement for AP-414 as a development candidate (DC) in 1Q25 as a potential best-in-class selective mTORC1/4E-BP1 inhibitor for monotherapy and combination therapies in second-line lung squamous cell carcinoma (LUSC, PIK3CA amplification) and second-line non-small cell lung cancer (NSCLC, patients with KRAS G12C mutations). • The AP-414 target product profile supports a significant share of 2L LUSC ($8-9B US only) and 2L KRAS G12C NSCLC ($3-$4.5B US only) markets. A strategic plan is in place to develop AP-414 to IND in 2026 and deliver a second development candidate (DC) from Apertor's CRAF project by 1Q26, while preserving cash runway. • Apertor's unique approach to steric obstruction of oncogenic protein-protein interactions has yielded a significant advance in its project to disrupt KRAS signaling (CRAF project). The series of compounds exemplified by AP-458/460 has demonstrated disruption of CRAF and BRAF dimer formation via steric obstruction with FKBP12 in both A549 (KRAS G12S, NSCLC) and HCT116 (KRAS G13D,

	CRC) cell lines. Moreover, concomitant induction of MAP pathway activity resulting in cellular senescence is consistent with on-target modulation of RAS-RAF interactions by AP-458/460. This new lead series represents a highly novel and fully differentiated strategy for defeating activation of KRAS signaling and would be a new drug class for managing NSCLC, CRC, and melanoma. Ongoing medicinal chemistry efforts are anticipated to yield compound(s) for in vivo testing in 2Q25. • Multiple fundraising activities targeting non-dilutive partnerships with large pharma are progressing with Daiichi-Sankyo, Takeda, Pfizer, and Merck; DC nomination and significant progress in CRAF are expected to attract considerable attention on this front, with the goal of obtaining a term sheet in 2Q25.

C.3 DEEP APPLE THERAPEUTICS

Quarter	**Company Progress Update**
Q4 2021	• Deep Apple has built a first wave portfolio. • The company has submitted business plans to the UCSF technology transfer office to in-license two advanced projects from the founders' labs, including the anti-inflammatory targets MRGPRX2 and 4. • The scientific advisory board has been built.
Q1 2022	• Initially, Deep Apple will apply its platform on exploiting the G-protein coupled receptor family, which is the largest druggable gene family. • Deep Apple has selected four targets for early prosecution: MRGPRX2 and MRGPRX4 for inflammatory conditions and mGluR7 and GABAB for neurological conditions. • Structural biology (cryo-EM) for three targets have been developed, and a term sheet for in-licensing a patent from UCSF on MRGPRX2 has been submitted. • Additionally, Deep Apple is organizing a pain development mini-symposium to inform go/no go decisions for A2a and EP4. • The company is currently recruiting for heads of Chemistry and Pharmacology and scientists in structural biology, computation, and deep learning. • Deep Apple is in discussions for space in either Mission Bay or Palo Alto.
Q2 2022	• A virtual screen of 500M compounds has commenced to identify leads and support medicinal chemistry initiation for MGPRX2 and X4.

	• Deep Apple has completed key hires in structural biology, biochemistry, computation, and pharmacology. The company's Scientific Advisory Board will be enhanced with the inclusion of Michel Bouvier, a world class expert in GPCR biology. • Deep Apple is exploring a research collaboration with MIT faculty on Al-assisted virtual library construction.
Q3 2022	• Ultra-high volume virtual screening for MRGPRX2 and X4 is underway. A biochemical screening strategy for compound evaluation for both receptors has been designed and implementation will be complete in 4Q22. • The first cryo-EM structure of MRGPRX2 will be produced to aid medicinal chemistry design and virtual screening. • Also in 4Q22, Deep Apple will complete the biological evaluation of GPR-65 and GABAb receptor and launch additional virtual screening campaigns. This cohort of targets will serve as the substrate for in-house drug discovery and external partnerships. • Deep Apple has completed a consulting agreement with Professor Connor Connelly at MIT to initiate an Al-assisted virtual library construction.
Q4 2022	• Hit to lead medicinal chemistry for MRGPRX2 is underway. • A 400 million compound virtual screen has been completed. • Deep Apple is projecting to be at lead optimization by 4Q23. • Structural biology for GPR 65 and mGluR7 is underway, cryo EM structures for both targets will be available in 1Q23, and virtual screening campaigns for both targets also will be completed in 1Q23 to initiate medicinal chemistry work. • Deep Apple is building TPPs for MRGPRX2, GPR65, GABAB and mGluR7 and key indications in autoimmunity, inflammation, and neurodevelopment disorders. • Deep Apple has entered confidential discussions with Servier for a research collaboration in oncology and neurodevelopment disorders. • Deep Apple has extended an offer for a head of Medicinal Chemistry/Drug Discovery.
Q1 2023	• Fast follow-on chemistry efforts in MRGPRX2 have yielded nano molar active novel compounds in excellent physicochemical property space. • In addition, chemically diverse hit options identified from the 500M compound virtual screen are currently being evaluated in wet pharmacology screens to ensure

	the delivery of multiple lead series for optimization. A proprietary inactive state structure of the receptor is being refined. The program is on track to enter lead optimization by 4Q2023. • A virtual screen of 2 billion compounds for PTH1R has been completed and hit confirmation will begin in 2Q2023. • A virtual screen of 2 billion compounds for the MC4R will be completed in 2Q2024. • Based on strong partnering interest for obesity targets, Deep Apple will execute virtual screens for MC4R, GLP1/GIP and GPR 75, all targets with high confidence in rationale for obesity. • Beyond obesity, structural biology at Deep Apple is focused on the delivery of active and inactive structures of GPR65, a high confidence in rationale target for autoimmune disorders. • Deep Apple is entering into confidential discussions with Vertex for collaborative research. • Deep Apple's head of Chemistry/Drug Discovery joined the company in April. • The company is currently profiling multiple candidates for the position of head of Biology and Translational Sciences.
Q2 2023	• The MRGPRX2 is rapidly advancing to clinical candidate status, currently projecting nomination of a clinical candidate in 1H 2024. DAT 216 is the current lead for the program and the compound meets all in vitro biology criteria and ADME objectives for clearance. Efforts are focused now on improving permeability and confirming function in disease relevant experiments in vivo. • Deep Apple has executed virtual screens of 1B+ compounds for each of PTH1R, MC4R, GLP1/GIP and GPR65. Compounds will be pharmacologically evaluated in vitro in 3Q/4Q. • Structural biology work is proceeding in parallel for MRGPRX2, GPR 75, and GPR65, aiming to deliver two structures this year. • Deep Apple has hired Jay Janz as head of Biology. Jay was formerly senior director of Biology in the Rare Disease unit at Pfizer. • Deep Apple has expanded its SAB membership with the introduction of Ellen Zhong (Princeton), Jennifer Listgarten (UC Berkeley), and Connor Coley (MIT). • Deep Apple has had a confidential discussion with Amgen for the obesity platform and is awaiting feedback.

Q3 2023	• Clinical candidate identification is on track for delivery in 1H 2024 for the MRGPRX2 project. Currently the project team is focused on human dose projection for the lead compounds. A patent application for the lead series has been submitted. • Virtual screens for the PTH1R, GLP/GIP, MC4R and GPR75 and GPR65 projects have been completed. Experimental screens for the MC4R project have yielded novel agonists with functional activity. The Deep Apple team is currently developing assays to establish biased signaling. In vitro screening for the PTH1R, GPR75 and GLP1/GIP projects will be completed in 4Q 2024. A cryo-EM structure for GPR75 is in the final stages for optimizing resolution. • Deep Apple has delivered first evidence of the deep learning enabled virtual library expansion for an exploratory target. This process will further accelerate lead identification by four months per target. • Deep Apple is engaged in business discussions with potential strategic collaborations with Eli Lilly and Sanofi.
Q4 2023	• The MRGRPX2 project will deliver clinical candidate nomination in 2Q2024. • Lead compounds such as DAT-751 demonstrate excellent target coverage at attractive human dose projections (54-500mg, QD). • Definitive experiments in biology to firm up the dose projections are ongoing. • The PTH program for the treatment of hypoparathyroidism has entered lead optimization and is currently projecting clinical candidate nomination in 1Q25. • In obesity, Deep Apple is pursuing multiple approaches for weight loss and weight loss maintenance. • The MC4R project initiated hit-to-lead optimization with a biased signaling approach. The GIP antagonist and GLP-1/GIP/GCGR triple agonist have also entered hit to lead. Given the interest in the obesity platform, Deep Apple will deprioritize activities in GPR65 and focus resources primarily on the triple agonist project. • The Deep Apple research platform has delivered two proprietary protein structures for MC4R and GPR57. In addition, the team has created orchard.ai, a proprietary deep learning-based methodology for virtual library design. • After the unveiling of the company in December, exceptional interest has emerged for Deep Apple from venture and pharma groups. Deep Apple will be initiating a Series B raise in 2H2024. Currently, the company is in active discussions with Logos Capital and Boxer Capital under CDA and has had several non-confidential

	interactions with Foresite Capital, Atlas Ventures, Goldman Sachs, and Alpha Wave. Similarly, interest from pharma (Roche, Novartis, Abbvie) groups in MRGPRX2 and the obesity portfolio has been high. • A cohesive business/investment strategy is being developed currently.
Q1 2024	• The MRGPRX2 project is advancing diverse compounds from 2 series, represented by DAT-2227 and DAT-2097, to definitive pharmacological and safety studies for DC declaration in June or July 2024. The objective is to deliver maximum occupancy of the receptor at low and safe doses and thus differentiate from competitors. • The bulk of Deep Apple's current efforts is on the obesity targets. The MC4R-biased agonist and the GIP antagonist projects have been advanced to lead optimization. DAT-1985 is a highly potent biased MC4R agonist which shows effective Gq signaling. Confirmation of beta arrestin recruitment is under way, and with these results the compound will be evaluated in vivo at ATPRD. DAT-1679 is a highly potent and selective GIP antagonist. The compound is being profiled in ADME studies. It will be evaluated in vivo at ATPRD in combination with available GLP-1 agonists in late 2Q or early 3Q24. DAT-744 has been identified a true small molecule Triple G agonist. • Current efforts are focused on optimizing potency and physicochemical properties through structure-based drug design. The Triple G campaign offers the opportunity to build a high value estate around incretin receptors for obesity. For example, through this optimization work Deep Apple has identified DAT-2251 as an efficacious GIP and glucagon receptor agonist, thus delivering an attractive and differentiated pharmacological profile. • Finally, in GPR75, with the proprietary structure in hand, virtual screens have been executed for identified binding pockets. Pharmacological characterization of the compounds will be completed during 2Q to enable the pursuit of an antagonist and a degrader project. • Given the intense interest in obesity, the company is in active and confidential discussions with major venture groups including Atlas Ventures, Foresite Capital, Orbimed, Vida Ventures, Alpha Wave, and Blue Owl. Similarly, the company is exploring in parallel strategic partnerships with pharma including Roche, Novo Nordisk, Lilly, Pfizer, and Merck for obesity, and Abbvie, Argenx, Blueprint, and Otsuka for MRGPRX2.

Q2 2024	• In the company's lead program targeting MRGPRX2 for use in immunological and inflammatory disorders, DAT-2097 has been identified as the leading development candidate compound. DAT-2097 has a best-in-class profile based on pharmacokinetics and safety margins in vitro (HERG, Poly pharmacology) and is projected to show long half-life, suitable for once daily dosing at concentrations that cover the IC90 of the target. A process route was developed to enable rapid evaluation through pre-IND enabling safety studies, which commenced in July. A potential backup candidate, DAT- 2340, demonstrates similar quality attributes. • Deep Apple has also made significant progress in its obesity portfolio. The MC4R biased agonist DAT-1985, with pharmacokinetics suitable for oral dosing in rodents, was tested in vivo in a Diet-Induced Obesity mouse model) at ATP R&D Labs. The compound showed remarkable efficacy and will be evaluated for CV safety. In the GIP project, DAT- 2619 has been identified as an orally bioavailable and potent (1nM antagonist) of the receptor. The compound is scheduled to undergo in vivo evaluation for weight loss in 3Q24. • Deep Apple is projecting to deliver the first cryo-EM structure of GIP antagonism, a significant asset which will accelerate the pace of the project towards development candidate delivery (currently projected for 2Q25). In the Triple G project, structural biology has delivered active state structures for the GIP and glucagon receptors which are currently being utilized. DAT-2389 is the advanced triple G compound with nM agonist activity across all three receptors, albeit in less desirable ADME space. The compound or optimized analogs will be evaluated in vivo in 4Q24. • And in the GPR75 project, virtual screening has delivered binders for the orphan GPR75 as confirmed by biophysical and biochemical assays. The identified compounds demonstrate antagonist properties. Selected compounds from this investigation are in structural biology studies and will advance to hit-to-lead optimization in 3Q24. • Regarding business development, Deep Apple is at the stage of research plan cocreation with Roche for a research partnership focused initially on GPR75 and GIP. Other major pharmas in the company's data room or under CDA include Amgen, Novartis, Lilly, Vertex and Merck. • Separately, Deep Apple is in discussions for potential business transaction for the MRGPRX2 clinical candidate with Blueprint and Almirall (Barcelona, Spain). Deep

	Apple will re-engage in Series B discussions with venture groups in 4Q24, ideally at the stage of term sheet discussions with pharma.
Q3 2024	• Deep Apple is in advanced term sheet discussions with Amgen and Roche for a multitarget collaboration involving its GIPR and GPR75 projects for the treatment of obesity and expects to finalize terms with either Amgen or Roche by January 2025. • Given the intense interest in obesity, the company has received multiple inquiries from venture groups for future financing rounds, and several groups have obtained access to data rooms including Orbimed, RTW, BVF, and Foresite Capital. • In toxicology studies, DAT-2097, the MRGPRX2 development candidate, has shown excellent tolerability in rodents at doses exceeding 1000mg/kg. Biological studies to build confidence in rationale for additional indications, including asthma and migraine, will be conducted over the next two quarters. • In the obesity portfolio, the GIPR antagonist DAT-2619 has shown excellent efficacy in animal weight loss studies as a monotherapy and in combination with liraglutide, a GLP- 1 peptide. • Deep Apple is currently focused on improving selectivity over glucagon receptor antagonists, aided by a first-in-industry cryo-EM structure. • Deep Apple anticipates a DC for GIPR in 2025. In the MC4R program, DAT-2322 has shown remarkable (19%) weight reduction in rodents in a 14-day study. • The company is currently focused on designing compounds with better physicochemical properties, and desired signaling which balances Gs/Gq and beta arrestin activities, to be profiled in rodent blood pressure studies in the next 2 quarters with a goal of DC delivery in 2025. • Triple-G compounds DAT-2389 and DAT-4246 are being profiled in vivo to set a baseline for efficacy with the appropriate pharmacological ratios across all three receptors, with a DC candidate projected for 2025. • Finally, GPR-75 has delivered multiple hits in excellent property space, confirmed by biological and biophysical assays. Hit-to-lead activities have been initiated. • In addition to the above, Deep Apple has identified a selective GIP agonist, DAT-3790, which will be profiled in vivo in combination with liragrutide in November 2024. (Both antagonists and agonists of GIPR have been shown to trigger weight reduction clinically.)

	• Progress in the above substrate, coupled with a strategic partnership with Amgen or Roche, will put the company in a strong position for additional financing campaigns.
Q4 2024	• In MRGPRX2, the development candidate 2097 has shown wide margins in rodent toxicology up to 300mg/kg dose (in life and clinical chemistry). • In parallel, Deep Apple is advancing DAT- 4775 and DAT-4825 in exploratory toxicology studies. • The latter two candidate-quality compounds offer a faster entry into the clinic with >$1M savings based on CMC attributes. Clinical entry is still anticipated in 4Q 2025. • In GIPR, DAT 4935 has emerged as a candidate-quality molecule. The compound meets selectivity and potency objectives, possesses attractive in vitro and in vivo ADME and PK properties, and will be profiled for weigh loss efficacy in vivo in 1Q25. • Currently Deep Apple is exploring approaches to further optimize potency based on the proprietary cryo-EM structure. • In the GPR75 orphan receptor project, the company has delivered significant potency gains via automated chemical library synthesis, guided by structure and computation. DAT- 5040 is the current lead for the program. The compound is being evaluated in cryo-EM for a high-resolution structure. Deep Apple is projecting identification of an in vivo tool in 3Q25. • In the MC4R agonist project, the company has delivered the first MC4R/Gq structure which guides the design of molecules with balanced signaling for Gs/Gq to deliver weight loss with no blood pressure effects. DAT 2368 is the current lead for the program, and Deep Apple aims to deliver a DC by the end of the year as a stretch goal. • In the Triple G project, DAT 4554 represents the current lead which demonstrates full agonism for all three receptors. The compound will be profiled in vivo in 1Q25. The current focus is on optimizing pharmacokinetic attributes to enable delivery of a DC in 4Q25/1Q26. • Deep Apple has engaged in productive BD discussions with multiple partners. Amgen is finalizing alignment with governance on agreed-upon financial and collaboration terms for GIPR and GPR75. Deep Apple has completed third party diligence with Roche and is in round 2 of term sheet discussions. Merck has entered deep diligence ahead of term sheet discussion, anticipated by early February for

	GIPR. In addition, Deep Apple has entered discussions under CDA with both Novo and AZ for the totality of its metabolic portfolio. The company is still projecting a 1Q25 BD deal closing.
Q1 2025	• Deep Apple remains on track towards signing a collaborative agreement for the GIPR antagonist and the GPR75 program. Completion of an agreement is forecast by mid-June. Leading prospects based on available terms are (in order): Novo Nordisk, Roche, and Amgen. • The MRGPRX2 program is on track to deliver an IND filing by the end of 4Q25. Since changes at the FDA have the potential to affect the timing, Deep Apple has explored parallel submission to both the European and Australian regulatory authorities. • Three development candidate compounds have completed dose range finding toxicology studies: DAT 2097, DAT4825, and DAT4775. Based on significant CMC efficiencies, speed to the clinic and overall properties, either DAT4775 or DAT 4825 will be advanced to regulatory toxicology studies this summer. • MRGPRX2 is the subject of partnership interest from multiple parties; Deep Apple is at term sheet negotiation with Almirall with the potential to retain US rights. • Deep Apple is forecasting delivery of a GIPR antagonist project in 2Q25. • Leading compounds include DAT 5093, DAT 4699, and DAT 5067. Compounds within these subclasses will be tested in 2Q25 in humanized GIP mice to determine efficacy and project clinical human doses and final compound selection. • In GPR75, Deep Apple has obtained atomic resolution structures and has identified multiple leads series, thus putting the program at an enviable position across the industry. • DAT-6821 and 6836 represent the most advanced compounds with in vivo tool potential. Deep Apple forecasts first in vivo results in 3Q25. • In MC4R, DAT 6064 is the most advanced lead which possesses the pharmacological attributes for in vivo work. • Current focus is on improving ADME properties, namely permeability. • Deep Apple will advance a development candidate quality molecule to in vivo studies to derisk blood pressure concerns.

	• Rhythm Therapeutics has recently expanded the indication space for their molecule to vulnerable populations, including pediatrics, thus suggesting that the blood pressure concern is surmountable. • In the triple G, Deep Apple will focus on exploiting targeted modifications of the current leads based on structural insights and computation. • No major medicinal chemistry will be committed until the influx of funds from a strategic partnership occurs in late summer. • Deep Apple is no longer forecasting a DC for 2025.

C.4 EVERCRISP BIOSCIENCES

Quarter	**Company Progress Update**
Q3 2021	• Evercrisp Biosciences closed in the third quarter. • Evercrisp is engaged in space planning discussions with Bakar Labs, an incubator on the UC Berkeley campus. • Key hires in computational sciences for the design of engineered Cas enzymes have been identified. • To accelerate research operations, the company has identified a suite of external capabilities for the synthesis and purification of internally designed Cas9 enzymes.
Q4 2021	• An invention disclosure for novel Cas-9 enzymes with self-delivery properties, emerging from the ATP sponsored research agreement, has been submitted. • A network of external CRO capabilities for protein production and evaluations has been established. • The company has secured incubator space in the Bakar labs on the campus of UC Berkeley.
Q1 2022	• Evercrisp has completed the design of a library of approximately 15,000 novel enzymes that incorporate cell penetrating peptides predicted to confer self-delivery properties. • Evercrisp has developed a battery of CROs to accelerate the preparation of these novel proteins.

	• A relationship with Emerald Square Labs, a remotely controlled laboratory, has been established to provide additional capacity for protein production and bioanalysis. Brian Vash and Stephanie Maiocco are leading this effort. • Evercrisp is aggressively hiring for a Chief Scientific Officer and scientists in bioconjugation, computation, genome editing and protein engineering. • Evercrisp will occupy laboratory space in the San Francisco Bay Area by May 1.
Q2 2022	• Evercrisp is creating a defined library of 2 x 10^5 members of novel cas designs incorporating cell penetrating peptides. • The CPPs test properties such as cationic, anionic and pH dependence on charge while covering a range of lengths, and the linkers test length and stiffness. • The library is comprised of 75 CPPs with 10 N-terminal and 10 C-terminal linkers to connect them to Cas9 at 24 insert positions. • A joint UC/ATP patent case is being filed this month for work stemming from the ATP sponsored SRA. • Key personnel in computation, mammalian cell editing and bioconjugation have joined the company and are operating at the Bakar Labs incubator at UC Berkeley.
Q3 2022	• The Evercrisp computationally designed library of modified Cas9 enzymes is being expanded with the incorporation of 19 additional CPPs, all of which are pH sensitive. • The new designs explore incorporation into internal sites and the N- and C-termini for positioning the CPPs. • The library will have approximately 237,000 designs for testing, and assembly of the library components has begun. • Bioconjugation chemistry to guide both RNAs and protein is under way, with the aim of demonstrating selective editing in hepatocytes via the conjugation with AsGPR ligands. • Evercrisp has hired Geoffrey Berguig as Chief Scientific Officer. Geoffrey has deep expertise in delivery of multiple biomolecules, including proteins and oligonucleotides.
Q4 2022	• Cas9-Ap22, the prototypical modified Cas-9 with self-delivery properties, has been scaled and is currently being evaluated in vitro for editing efficiency. • Conjugation chemistry of AsGPR trimers with sgRNA has been developed to enable demonstration of hepato-selective delivery in HEP G2 cells and primary hepatocytes, a precursor step to in vivo work projected for 3Q23.

	• In parallel, Evercrisp is developing methodologies to evaluate and optimize RNP plasma stability, and machine learning methods for the design of TfR1 and IGF2R targeting ligands to deliver Cas9-AP22 and other modified Cas9 enzymes to podocytes and skeletal myocytes. • Evercrisp is building TPPs for lead indications which currently include hepatocellular carcinoma, primary hyperoxaluria, refractory gout, myotonic dystrophy type 1, and ApoL1 mediated kidney disease. • Evercrisp is at the advanced discussion stage with CEO candidates.
Q1 2023	• Cas9-A22p3x and other Cas9-fusions have been scaled up and are now under evaluation for self-delivery in various cell lines (HepG2, HEK293, ReNcells, and NPCs). • Modified sgRNAs are being screened in a robust RNP plasma stability assay to enable in vivo delivery. • To enable selective delivery in vitro and in vivo, triantennary GalNAc-sgRNA conjugates have been made that selectively target ASGPR, while scFV (anti-TfR1), Fab (IGF2R), and VHH (IGF1R) have been made and confirmed to mediate uptake in cells in a receptor-dependent fashion. • Machine learning methods have been developed to enable in silico design of 1) de nova targeting ligands as Cas9 fusions and 2) membrane disruptive peptides. • Hemolysis assays and molecular dynamics simulations have been implemented to screen and optimize peptides with endosomal escape like properties which has led to the identification of nine new peptides fused to Cas9, to be evaluated in cells. • Evercrisp has made four key strategic hires, enabling growth in the Protein Sciences, Cell Biology, Chemistry, and Translational Biology groups, while increasing diversity and gender balance across the organization. • Evercrisp is continuing to build the TPPs for lead indications in liver (AIP), muscle/heart (DM1), and kidney (AMKD).
Q2 2023	• Modified RNPs through guide chemical optimization have yielded constructs which currently show 100% stability in rodent plasma. • Evercrisp has developed a solvent accessibility score methodology for the design of guide RNAs with improved stability. High throughput methodologies have been developed for the rapid identification of optimized endosomolytic peptides ahead of

	preparing fusion constructs. These include co-incubation, click chemistry mediated conjugation, and pH responsive melittin binding. • 13 new Cas9 fusions with pH responsive peptides have been prepared and are being evaluated. A high throughput methodology for editing measurement through cytometry has been established. • Targeting with lead AP22 modified RNP to hepatocytes and myocytes has been demonstrated. AP22 RNP targeted to hepatocytes shows measurable but modest improvement in editing over wild type Cas9. • To overcome potential issues with endosomal/lysosomal stability of SpyCas9, Evercrisp will pursue an MTA with UC Berkeley to evaluate GeoCas9 which is more acid stable. • In vivo delivery with optimized RNPs is currently planned for 4Q.
Q3 2023	• Chemical modifications of guide RNA have yielded RNP constructs with 100% stability in human and mouse plasma as well as enhanced stability upon self-delivery in vitro. • Machine-learning algorithms coupled with high-throughput yeast display have enabled design of de nova receptor ligands against human TfRl with low nanomolar affinity to enable receptor-targeted delivery in cells over expressing hTfR1. • Over 300 endosomal escape peptides have been screened and designed in a high-throughput manner for pHdependent membrane disruption, helping to build a machine-learning algorithm to generate and optimize endosomal escape peptides. • Lead peptides have been delivered in trans with chemically modified RNPs, leading to 20% editing following receptor mediated uptake. In addition, peptide binders have been computationally designed and tested to enable release of endosomal escape peptides like melittin and ppTG21 in a pHdependent manner. • Evaluation of the lead peptides and binders as fusions to Cas9 are currently underway. • Following an MTA with UC Berkeley, Evercrisp is also evaluating a more temperature stable Cas9 variant "GeoCas9" which may enable enhanced stability in endosomes and lysosomes. • In vivo administration of receptor targeted RNPs in mice is now underway to evaluate both biodistribution as well as in vivo editing potential. • Readouts on biodistribution as well as editing are expected by the end of 4Q 2023.

Q4 2023	• Over the past quarter, Evercrisp has demonstrated receptor dependent uptake of RNPs with ASGPR (liver) and TfRl (skeletal muscle, heart). • Based on publicly available information, we believe that Evercrisp is the first company to show genome editing via transferrin receptor for muscle disorders. The observed editing efficiency of 50% is clinically relevant. • Evercrisp is building a rich IP pipeline with the submission of multiple patent applications in 1Q2024 for computationally-enabled de nova design of novel targeting ligands, pH-dependent endosomolytic agents, and likely binders of endosomal escape peptides (EEP). • Pivotal in vivo experiments will be conducted in 1H2024 to confirm biodistribution and editing efficiency in the CNS and muscle via ICV and systemic administration respectively. • Liver targeting has been deprioritized and will be focused on hepatocellular carcinoma. • Evercrisp is still operating in stealth mode and interactions with venture groups have been minimal, currently limited to Yosemite Bio and Sixth Street based on introductions by the founders. Recent interactions with pharma groups including Lilly and Novartis at JPM revealed strong interest in the technology and applications predominantly in CNS and muscle. Follow up meetings under CDA will be scheduled upon availability of biodistribution data in 2Q2024.
Q1 2024	• Over the past quarter, Evercrisp has screened and selected a lead targeting ligand for TfRl fused to Cas9 to enable muscle and heart delivery in vivo. • The company has also tested a small molecule endosomal escape agent in cells to increase the editing potency of its Cas9 fusions by 160x. • In all TfRl-expressing cells tested (hTfRl-293, primary cardiomyocytes, U87MG, and HT080), Evercrisp demonstrated significant editing (up to 90%) via a combination of the Cas9 fusion and its endosomal escape agent and peptides. • In the absence of the endosomal escape agent, the company can achieve 50% editing with ~1 nM of targeted Cas9 fusions. • Evercrisp also initiated biodistribution studies of its TfR1-Cas9 fusions and demonstrated greater in vivo targeting to muscle, heart, liver, and kidney of the TfR1-Cas9 fusion RNPs, compared to Cas9 RNPs alone, in transgenic mice expressing hTfRl.

	• In 2Q, Evercrisp will focus on scaling production of low-endotoxin Cas9 and guide RNA to enable in vivo editing in mice that overexpress the human TfRl receptor. Based on feedback from multiple venture groups and strategic partners, in vivo editing in muscle (on track for 2H24) will catalyze partnering and financing discussions. Evercrisp is also screening and selecting lead miniproteins targeting IGF1R and IGF2R to enable ICV administration and editing in the brain.
Q2 2024	• Over the past quarter, Evercrisp has optimized the design of its lead TfR1mp-Cas9 fusions to enable muscle and heart delivery in vivo as well as completed biodistribution studies with these fusions. • In addition, the company has selected two IGFR1Rmp-Cas9 candidates to move forward for in vivo biodistribution and editing studies in the brain. Both IGF1Rmp-RNPS and TfRlmp-RNPs are potent on cells, with 50% editing achieved as low as 200 pM. Evercrisp has also screened and generated novel IP on a small molecule endosomal escape agent in cells, containing a handle for future bioconjugation to the targeted RNPs. • In developing assays for in vivo editing, company scientists also determined that modified sgRNA is not fully stabilized in human and mouse serum and requires further chemical modification to ensure active RNPs are delivered to target tissue upon systemic administration. The sgRNA chemistry will be optimized and finalized in 3Q to enable in vivo editing studies for both systemic and CNS injections. • To further validate the de nova designed targeting miniproteins for in vivo delivery of other biologic cargo, Evercrisp is conjugating well-validated siRNAs to demonstrated receptormediated uptake and KD in relevant tissues; muscle/heart for TfRlmp and brain for IGF1Rmp. • These in vivo studies are planned to begin in 3Q with readouts in 3Q and 4Q. • Evercrisp's business development discussions with Lilly and Sarepta will be reinitiated in 4Q24 with the availability of in vivo biodistribution and editing data.
Q3 2024	• Evercrisp's proprietary targeting technology is currently being applied to delivery of multiple cargos including ASOs, SiRNAs, RNPs, and protein fusions, thus vastly expanding the potential of its research platform. • Evercrisp is currently designing novel mini proteins to target kidney, brain, and muscle.

	• Over the past quarter, Evercrisp selected an early lead TfRlmp for further optimization through computational design to enhance human and cyno TfRl binding for future cynomolgus studies. • IGF1Rmp-RNPs were administered via ICV and intrastriatal (IStr) injections to assess brain biodistribution, with IStr administration showing broad distribution in the striatum and neuronal uptake, absent in untargeted RNPs. • CNS editing studies will follow once endosomal escape agents (EEAs) are confirmed effective in the striatum. • After further formulation optimization, TfRlmp-RNPs demonstrated 50% editing at 30-60 pM on cells. A lead EEA and endosomal escape peptide (EEP) were identified, showing potency in the 100-200 nM range. Screening of pH-sensitive linkers to conjugate the EEA to RNPs is ongoing, with selection expected by November. • The lead peptide is being fused to mini proteins and Cas9, with results anticipated by the end of October. • sgRNA chemistry has been optimized for serum stability, with final lead selection expected by November. • Additionally, siRNA targeting Mstn, conjugated to hTfRlmp, showed 80% knockdown in relevant muscle tissues in hTfR1-mice, with no effect in WT-mice. • A repeat study targeting a ubiquitously expressed transcript (Ssb) and a separate repeat dosing study to assess immunogenicity are both ongoing, with results expected by the end of October and November, respectively. • The results from the ongoing studies will trigger formal initiation of business development discussions in the December-January time frame and potential unstealthing of the company in early 2025.
Q4 2024	• Over the past quarter, Evercrisp achieved notable progress in receptor-targeted delivery and genetic medicine optimization. • The transferrin receptor 1 miniprotein (TfRlmp) underwent computational redesign for human and predicted cyno receptor binding, with an oligonucleotide library prepared for Q1 screening. • Computational redesign of IGF2Rmp was completed to enable cross-species receptor reactivity, with in vitro and CNS biodistribution studies planned. • A library of miniproteins targeting the podocytespecific receptor Nephrin demonstrated receptor-dependent uptake in initial cell assays.

	• Upon completion of screening, hits will be tested in vivo for siRNA-mediated knockdown in podocytes. CNS editing studies with A22p-fused RNPs achieved 4% editing and widespread striatal editing, informing plans for IGF1Rmp-Cas9 fusions in Q1. However, EEP co-formulation with TfR1mp-Cas9 was deemed nonviable due to aggregation, redirecting focus to 17 pH-sensitive linkers for EEA conjugation, with selection in process. • Serum stability enhancements included sgRNA modifications and a mass-spec assay to identify RNase cut sites, with polyethylene glycol methacrylate (PEGMA) conjugation under evaluation to shield RNPs and mitigate immunogenicity. • In siRNA delivery, repeat dosing of TfR1mp-siMstn is ongoing, while initial dose-range findings for TfR1mp-siSsb showed >95% knockdown in muscle tissues and partial knockdown in the heart and diaphragm. • A dose-response study of C16-conjugated siSod1 following ICV administration was also completed, setting the stage for comparative efficacy assessments of IGF1Rmp-siSod1 in Q1.
Q1 2025	• Over the past quarter, Evercrisp made significant strides in receptor-targeted delivery and genetic medicine optimization. • TfR1mp was conjugated to an siRNA targeting the ubiquitous transcript SSB, achieving receptor-specific knockdown in muscle tissues such as the diaphragm, quadriceps, triceps, and tibialis, with partial knockdown in the heart. • Repeat dosing studies confirmed that equivalent knockdown was achieved after the second dose, and formulation for subcutaneous administration produced comparable knockdown levels to intravenous dosing in mice. • An IGF1Rmp-siSod1 study was also conducted via ICV administration, but given the potency of the naked siRNA alone, no meaningful impact was observed with receptor-targeted miniproteins. • Progress in the miniprotein discovery pipeline included completing the primary screen for nephrintargeting mini proteins, yielding nearly 100 hits that are advancing to secondary confirmatory screens before in vivo evaluation. • Advances in the editor delivery platform included optimizing sgRNA modifications to achieve 50% stability after 30 minutes of serum incubation, validated by self-delivery and LC/MS/MS. These modifications also resulted in 100% stability in the presence of RNase1, the most common RNase found in serum.

	• IGF1Rmp-Cas9-A22p fusions were dosed in mice for in vivo editing, with brain tissue editing results expected by early May. • Additionally, several hundred milligrams of purified TfR1mp-Cas9 fusions were formulated for upcoming biodistribution and in vivo studies. • Endosomal escape efforts progressed with the design of pH-responsive linkers that release endosomal escape agents (EEAs) at early endosomal pH (6.6-6.2), now being scaled for conjugation to RNPs or copolymerization with PEGMA. PEGMA polymers were synthesized and conjugated to RNPs, maintaining activity, and paving the way for future optimizations to enhance serum stability, reduce immunogenicity, and improve RNP pharmacokinetics. • Evercrisp will make two presentations at the American Society for Gene and Cell Therapy (ASGCT) Annual Meeting taking place in New Orleans May 13-17. One presentation elucidates the company's tissue-specific oligonucleotide delivery platform, and a second presentation shares information about Evercrisp's method of achieving precise, in vivo delivery of gene editors to previously inaccessible tissues via computationally designed miniproteins.

C.5 INITIAL THERAPEUTICS

Quarter	**Company Progress Update**
Q2 2020	• Initial Therapeutics is the new name for Opal Biosciences, as we found that the name ‘Opal’ had a potential trademark conflict. • ATP closed a $75M series A round in July, investing the first tranche of $1M. • Initial will be based in San Francisco. • The vision is to unlock high value target space by targeting protein translation: interacting with key components of the translation machinery to affect protein synthesis in its ‘initial’ moments disables the function of the protein as a whole. • ATP is conducting a search to identify an entrepreneur in residence with deep expertise in drug discovery, likely a medicinal chemist with significant depth in chemical biology, and the potential to become chief scientific officer. • In addition, Initial will recruit a chemical biologist with expertise in proteomics and ribosomal biochemistry to commence implementation of the research platform.

	• Initial will function as a virtual entity for the remainder of 2020, establishing in vitro translation screens using an unbiased diversity library to identify hits for high value targets (c-Myc, a-synuclein). • In parallel, Initial will outsource the synthesis of a library enriched with validated translation modulation chemotypes and enter a sponsored research agreement with the laboratory of company founder Brian Paegel. • The SRA has two objectives: 1) Validate chemistry protocols for the synthesis of DNA-encoded libraries of privileged motifs for translation modulation; and 2) Develop a whole cell screen using microfluidics – a screen that could have transformational potential, as it will enable functional readouts and capture multiple mechanisms in the affect translation. • Initial will collocate with Nine Square Therapeutics (see entry below) to capture drug discovery efficiencies. • ATP has initiated dialog with SmartlLabs in South San Francisco, with projected occupancy in 1Q 2021.
Q3 2020	• In the quarter, Initial Therapeutics made significant progress in ramping up its operations. • The company hired and onboarded as chief scientific officer Phil Patten, who also joins ATP as an entrepreneur in residence, and who was most recently cofounder and chief scientific officer at DiCE Molecules, a privately held company applying directed evolution to medicinal chemistry to discover and develop small molecule therapeutics. • Initial is recruiting scientists with expertise in ribosomal profiling – a key technology enabling the company's translation modulation platform – as well as microfluidics based screening and encoded library synthesis. • Negotiations continue with SmartLabs for lab space in South San Francisco, with occupancy anticipated in 1Q21. • The design of Initial's first proprietary compound library is under way. The library will be used in ribosome profiling studies to identify new biological targets and is designed to target heretofore impossible to drug oncology targets, including KRAS. • In early experiments, 10 proprietary initial-designed compounds were tested for their ability to stall translation of wild-type or G12C KRAs, among the most frequently

	mutated gene in human cancer (G12C is one of the most common KRAS mutations driving oncogenesis). • Results of the experiments suggest that some of the compounds stalled translation. Interestingly, one compound preferentially inhibited translation of the mutant while sparing the wild-type sequence. • These preliminary results are viewed as highly encouraging, as they suggest the proprietary chemistry being used has the potential to unlock other high value, heretofore impossible to drug targets. • Initial also has established a sponsored research agreement (SRA) with the laboratory of co-founder Brian Paegel at UC Irvine to develop microfluidic cell-based screens. This will enable screening in live cells or cellular lysates which would expand the scope of assays that Initial could execute.
Q1 2021	• Initial Therapeutics made significant progress in the quarter in ramping up its operations. • Initial has recruited and onboarded two scientists with expertise in ribosomal stalling and profiling -- key technologies enabling the company's translation modulation platform -- and a third scientist, a chemical biologist with expertise in DNA-coded libraries and lead optimization of small molecules, has accepted an offer and starts with the company on April 30. • The team has taken occupancy of lab and office space at SmartLabs in South San Francisco, and experimental work has commenced in the space. • The design of Initial's first proprietary compound library of 750 compounds is complete. The synthesis of more than 500 compounds has been completed, and screening commenced in April 2021. The library will be used in ribosome profiling studies to identify new biological targets and is designed to target heretofore impossible to drug oncology targets, including c-MYC and KRAS, as well as HTT, a Huntington's disease target. • Screens for the first three targets will be completed by end 3Q21 and, upon hit confirmation, Initial forecasts the initiation of a hit-to-lead optimization campaign by end 4Q21. • To further its technology optimization, Initial has established a sponsored research agreement with the laboratory of co-founder Brian Paegel at the University of California Irvine to develop microfluidic-based functional screens of DNA-encoded

	libraries. This will enable functional screening in live cells or cellular lysates, which will greatly expand the scope of chemical space that Initial can practically explore for translation inhibitors. • Excellent progress has been made in the sponsored research work, and proof-of-concept for screening of "One-bead-one-compound" (OBOC) DNA-encoded libraries has been established. Libraries are in synthesis to perform an expanded search around the privileged chemotype. • The combination of the microfluidics-based screening technology with OBOC DNA-encoded library construction will create a significant speed advantage for Initial in the translation modulation space.
Q2 2021	• In 2Q21, two in vitro well characterized hits were confirmed for MYC, a protein-coding gene involved in certain cancers; hit expansion libraries on these have been designed and are in synthesis. Several additional hits to KRAS were obtained from the proprietary library and are being further characterized for selectivity and potency. • Also in the quarter, Initial added to its team Ilsa Kirby, Ph.D., and Margot Paulick, Ph.D., and to its Scientific Advisory Board Rachel Green, Ph.D., professor of Molecular Biology and Genetics at Johns Hopkins University School of Medicine, Howard Hughes Medical Institute Investigator, and a noted world expert in ribosome biochemistry and biology.
Q3 2021	• Initial Therapeutics over the past quarter focused on mechanism of action validation studies for the leading target c-MYC. Hit-to-lead chemistry work for c-MYC is ongoing. • Additional portfolio activities include hit confirmation for KRAS and reagent creation for in vitro translation screening for additional targets. Technology build has started with the construction of one-bead-one-compound DNA encoded libraries through a sponsored research agreement with the University of California, Irvine.
Q4 2021	• The lead program, c-MYC, is advancing to in vitro and in vivo work in disease models this quarter through a sponsored research agreement with Stanford University. • Screening for additional targets has been completed to afford a healthy pipeline and projects. • Attractive hits for ARV7, n-MYC, NRF2, beta catenin, and HTT have been identified.

	• Given the efficiency of the chemistry strategy, Initial with initiate parallel hit to lead campaigns in ARV7, n-MYC, and NRF2 in 2Q 2022.
Q1 2022	• Initial has developed a complete screening strategy for the leading c-Myc program and has filed a patent for c-Myc. A collaboration with Stanford University has been established to support the project. • A ribosome profiling study will be conducted in 2Q to provide a selectivity blueprint with three leads. • Initial has prioritized AR V7 as its next target; a complete screening strategy has been developed, and the project is entering hit to lead. • NRF2 and n-Myc will be pursued opportunistically. • Novartis has approached Initial for a potential partnership discussion. • Initial is about to sign a lease in South San Francisco for new space, which will be shared with Nine Square.
Q2 2022	• Based on a favorable readout from a single ascending dose study for pharmacokinetics and tolerability, c-Myc lead ITC651 will be advanced to multiple ascending dose and efficacy studies planned to commence in August. • A patent case for the c-Myc chemical estate has been prepared and will be filed this quarter. • Additionally, the Initial team has identified c-Myc translation inhibitors with covalent warheads. Confirmatory experiments for covalent trapping are at the design stage. • Initial has taken occupancy of new labs in South San Francisco. • The company is at the final stages of evaluating candidates for its head of medicinal chemistry role.
Q3 2022	• Initial has identified an additional lead for the c-Myc program, ITC2060, with superior pharmacokinetic properties and higher coverage of cellular IC50s. • ITC2060 and ITC651 will be evaluated in vivo this quarter. • ITC651 is the first of the two compounds elected for assessment of in vivo efficacy and is currently in a 4-week in vivo xenograft efficacy study, using the human colon cancer-derived line HCT-116, with an efficacy readout calendared for December 2022. • ITC2060 is the second compound elected for an in vivo efficacy study -- in this case using Daudi cells, a well-characterized cell line derived from human Burkitt's lymphoma, a classically c-Myc addicted tumor.

	• In-life work is calendared to be completed by end of 4Q22 and dispositive efficacy data is expected in January 2023. • In addition, ITC269 has been identified as the lead for the ARv7 project. The compound displays 10-fold selectivity over counter screened targets which include c-Myc, HTT, PCSK9, beta catenin, and KRAS WT and mutants. • Hit-to-lead efforts for ARv7 will commence in 1Q23. • Initial has hired Jim Li as its head of medicinal chemistry. Jim has extensive experience in pharma (Roche) and biotech.
Q4 2022	• Initial has completed an HCT-116 xenograft efficacy study with ITC-651 in Balb/c nude male mice dosed at 100 and 30 mpk (PO; qd). • Significant tumor growth inhibition was observed at 100 mpk and other biomarkers are under assessment. • The study is being repeated in female Balb/c nude mice with a bridging PK study. • A second compound, ITC-2060, is being assessed in the same HTC-116 model. • Cellular activity has been demonstrated for two hit compounds on the Arv7 program and a second hit to lead program will be underway in 1Q2023. • TPPs are being completed for the lead program c-Myc in several indications, with consideration of both oral and injectable options. • Discussions with seasoned candidates for the head of Biology role are at advanced stages.
Q1 2023	• Initial has repeated an HCT-116 xenograft efficacy study with ITC-651 in Balb/c nude male mice dosed at 100 mpk (PO; qd). • Significant tumor growth inhibition was again observed, and other biomarkers are under assessment. • A more potent follow-up compound, ITC-2936, is currently being evaluated in an MV-4-11 leukemia xenograft model. • Planning is underway for evaluation of ITC-2936 in a DOHH-2 lymphoma xenograft model. • Pending results from the planned efficacy and safety studies with the advanced compounds, Initial remains on track for clinical candidate identification in 1Q2024. • In the AR-V7 program, treatment of prostate cancer cells with hit compounds (e.g. ITC 2148) results in a reduction in AR-V7 protein levels and cellular viability.

	• TPPs are being completed for the lead program, c-MYC, in several indications, with consideration of both oral and injectable options. • Both an SVP of Chemistry and an SVP of Biology have joined the Initial team. • Business development discussions with Ono, Lilly, and Sanofi are ongoing.
Q2 2023	• The more potent follow-up compound, ITC-2936, has been evaluated in an MV-4-11 leukemia xenograft model. The compound demonstrated complete tumor growth inhibition and overall favorable tolerability based in life (weight loss) and blood chemistry. • Initial will be advancing three leads to definitive PK/PD and safety studies in 2H 2023 to enable candidate selection in 1Q 2024. • Mechanistic studies have identified compounds with a different efficacy profile; longer and sustained duration of translational inhibition for c-Myc, ARV7, NRF2. These compounds will be evaluated in vivo. • ITC-2148 is the lead compound in the ARV-7 program. The compound has shown sustained inhibition of both ARV7 and full-length AR, as desired by the target product profile. SAR work is ongoing to optimize potency. • NRF2 is under consideration as target 3 in the portfolio. • Productive business development discussions with Merck and Sanofi have occurred with an agreement to reengage at JPM when Initial will be closer to candidate nomination. • Positive interactions with venture groups have taken place, including Orbimed, Mirae Asset, and Goldman Ventures, in anticipation of raising additional funds in 2024.
Q3 2023	• Initial has identified multiple advanced leads on the c-MYC program in MV-4-11, an acute myeloid leukemia (AML) xenograft model. • Multiple leads have demonstrated complete tumor growth inhibition and overall favorable tolerability at the efficacious dose, based on in life (weight loss) and blood chemistry. • Initial is advancing multiple leads through definitive PK/PD and safety studies in 2H 2023 to enable candidate selection in 1Q 2024 with a specific focus on widening the therapeutic index to give the company optionality as it elects a candidate. • Mechanistic studies have identified compounds with a different in vitro translation profile, exhibiting longer and more sustained duration of translational inhibition for c-Myc and ARV7. These compounds will be evaluated in vivo.

	• ITC 45258 is the lead compound in the pan-AR program, and it has demonstrated improved PK such that it covers the cellular IC50 in a relevant AR cell line for >8 hours. • The compound has shown sustained inhibition of both ARV7 and full-length AR, as desired by the target product profile. • Further in vivo studies are planned with ITC-4525 and SAR work is ongoing to further optimize potency and PK, with the goal of identifying an analogue with compelling in vivo efficacy at a well-tolerated dose. • NRF2 is under consideration as a third target in the portfolio. • Productive business development discussions with Merck and Novo Nordisk have taken place, with an agreement to re-engage at JPM in January, when Initial will be closer to candidate nomination. • Positive interactions with venture groups, including OrbiMed, Mirae Asset, Novo Ventures, RA Capital, and Goldman Ventures, have also taken place in anticipation of raising additional funds in 2024.
Q4 2023	• For the lead c-Myc program the Initial team is advancing 3 leads (ITC4161, ITC4298, ITC 4828) to scale up and candidate selection enabling efficacy and safety studies. • Multiday in vivo safety evaluation of the leads is currently scheduled in March to enable formal clinical candidate nomination in April. • Initial has demonstrated complete tumor reduction after 30 days with Q2D (every other day) dosing, with excellent in-life tolerability. Initial has performed deep mechanistic studies on the mode of action for key compounds to reveal that, in addition to c-Myc, the induction of integrated stress response (ISR) due to ribosomal collisions is a key contributor to efficacy. There is clinical precedent for ISR as an efficacy driver for cancer as demonstrated by the Monte Rosa degraders of GSPT1, now in clinical development. • The lead compound for the panandrogen receptor (pan-AR) program is undergoing in vivo evaluation this quarter. Initial is accelerating the lead optimization work for the pan-AR project, with the team focused on improving potency. • Initial is active in discussions with venture groups to raise a $75-l00M Series B. Several groups are under CDA and in the company data room including RA Capital, Orbimed, Goldman Sachs, and a16z.

	• In addition, potential strategic partners include BMS, Lilly and J&J. Clinical candidate nomination will be the trigger for term sheet discussions based on the collective feedback.
Q1 2024	• For the lead c-Myc program, the Initial team has advanced ITC4819 and ITC3764 through a battery of DC-enabling studies including in vitro safety studies (standard kinase and receptor panels) and genotox (Ames) with no show-stopping signals. • Pharmacodynamic studies in xenografts have demonstrated knockdown of c-MYC protein levels, knockown [sic] of c-MYC-regulated genes, and up-regulation of p21 by ITC-4819 in xenograft tumor models, setting the stage for use of these as pharmacodynamic markers in subsequent studies. • These two advanced leads are currently in final DC-enabling studies including 14-day rat toxicity (Q2D dosing) and single ascending dose PK in dogs. Data from these two studies will be used to give final ranking and is expected to support formal declaration of a DC in May 2024. • Initial has accelerated the advancement of the pan-AR program by expanding the external chemistry team and has made significant advances in potency. (This has necessitated the acceleration of the 2024 financing plan.) • The most advanced hit, ITC4525, is currently undergoing evaluation in an in vivo prostate cancer xenograft (22rV1). Results from this in vivo study will be used to inform the accelerated hit-to-lead work on this program. • Initial has continued to progress discussions with VCs with the goal of raising a $75M+ Series B in 2024. • Initial is also in discussion with several potential partners and has shared under CDA the list of additional targets to which Initial has hit compounds. • Notable interest has been expressed in NRF2. • With the addition of Peter Dilaura as full time CEO in April and the anticipated declaration of a DC in May, Initial will be circling back with numerous interested parties on fundraising activities.
Q2 2024	• For the lead c-Myc program, the Initial team has completed the advancement of ITC-4819 and ITC-3764 through a battery of DC-enabling studies and based on these data, ITC-4819 has been chosen as the lead compound. • Pharmacodynamic and duration of action studies of ITC-4819 have been completed and have demonstrated knockdown of c-MYC protein levels, knockdown of c-MYC-

	regulated genes, and up-regulation of ISR, p21 and p53 by ITC-4819 in xenograft tumor models, providing further insights on MOA and setting the stage for use of these as pharmacodynamic markers in subsequent studies. • Single ascending dose PK in dogs has been completed, as well as the in-life portion of a 14-day beagle dog toxicology study. • Additionally, xenograft efficacy studies with ITC-4819 have been completed in six solid tumor models and in combination therapy studies with Venetoclax and Azacytidine. • These data will be presented at the July 30 board meeting with a forward-looking recommendation. • Initial has accelerated the advancement of the pan-AR program by expanding the external chemistry team and has made significant advances in potency. • Two prostate efficacy models (castrated and non-castrated) have been validated with the use of two literature compounds and the most advanced hit, ITC-4525, has demonstrated modest tumor growth inhibition in these models. • The team is actively generating and evaluating analogues with the goal of identifying leads with DC-like in vivo efficacy by 4Q24. • A screen of 3000+ proprietary compounds within the space of the current chemotype have been screened in Initial's in vitro translation assay (IVT) against nine new targets, and IVT hits have been confirmed against NRF2 and four others of these targets. • NRF2 is currently the focus of hit-to-lead work. • Continuation of partnering discussions is expected post formal nomination of ITC-4819 in 3Q24.
Q3 2024	• The Initial team continues to evaluate ITC-4819 as a development candidate for its cMYC program. • Although 14-day rat and beagle dog toxicology data suggest a narrow therapeutic index at tolerated doses for single agent efficacy in relevant in vivo models of hematological cancer, the team has pursued in vivo combination studies to assess tolerability at efficacious doses and extend the therapeutic index. • These studies confirm a statistically significant improvement in tumor growth inhibition of ITC-4819 in combination with standard of care at lower doses than

	required in single agent efficacy studies, which may justify potential development as a therapy for the 1L AML patient population. • Initial is conducting analysis of ITC-4819 across a broad panel of cancer cell lines from solid and heme tumors to determine key molecular markers of sensitivity, which will inform solid tumor in vivo studies. • Additional activities are underway in the cMYC program to identify potential back-ups to ITC-4819, including structural enablement of the program and a diversity screen in the IVT assay. This will potentially enable new chemotypes of translation inhibitors, dramatically expanding the potential chemical space. • The company continues to pursue programs targeting additional high-value undruggable oncogenic proteins, including FL AR. • In addition, Initial has ramped up discussions with potential pharma partners for early drug discovery collaborations around targets of mutual interest in oncology, as well as potential extension of Initial's STOPS platform into non-oncology indications.
Q4 2024	• Initial Therapeutics continues to advance its novel ribosome glue small molecule discovery efforts targeting high-value, hard-to-drug oncology targets. • Significant progress has been made in its lead cMYC and Pan-AR programs over the last quarter. • In the cMYC program, the company has discontinued activities on its lead compound, ITC- 4819, to focus on alternatives with stronger on-target activity and superior selectivity. • A critical breakthrough was achieved with the cryo-EM structure of the ribosome-cMYC nascent chain-ITC compound, enabling rational structural design for the program. • Furthermore, Initial completed a 140,000-compound diversity screen in a key biochemical assay to identify expanded chemotypes for this effort. Multiple compounds with potency and selectivity superior to ITC-4819 are now being advanced into in vivo pharmacodynamic (PD) and efficacy studies. • In the Pan-AR program, the company is advancing multiple compounds demonstrating <100nM potency in both biochemical and cellular assays, with observed in vivo PD effects. • These compounds are effective against both the full-length androgen receptor protein and clinically relevant splice variants.

	• Initial is preparing for in vivo efficacy studies and is pursuing cryo-EM structures to further accelerate medicinal chemistry efforts. Initial Therapeutics plans to operate both the cMYC and Pan-AR programs in parallel through 2Q25, at which point one program will be selected for advancement with the goal of declaring a Development Candidate by 4Q. • The company will explore partnering discussions with pharmaceutical partners for the second program as appropriate (Merck, J&J). • Additionally, the company continues to generate and validate potent biochemical and cellular assay hits against other high-value oncology targets. • With further meaningful validation of selectivity and tolerability within the cMYC and Pan-AR lead programs, Initial Therapeutics aims to capitalize on opportunities for discovery partnerships based on its STOPS platform.
Q1 2025	• Initial successfully generated cryo-EM structure for both its cMYC and PanAR programs, containing the ternary structure of ribosome, translating nascent chain, and Initial compound. • The AR structure, at 2.7 A° resolution, is the most refined structure available for ribosome-nascent peptide interaction. Together with a new cMYC ternary structure at 3.03 A° resolution, both projects structurally are enabled for highly directed chemistry analog development. • Initial is now able to dock existing and planned compounds into the structure to optimize ribosome-nascent chain contact. Armed with this structural understanding, Initial is able to rationally identify compounds that have the potential to achieve nascent peptide selectivity while minimizing chemotype features that have historically impacted off-target toxicity within the company's proprietary library of ribosome glues. • Key modifications to the ribosome binding component of the ITC molecules have shown significant improvements in in vitro toxicity assays (CD34). Initial has advanced leads with significantly improved properties in its programs. In the cMYC program, ITC-8962 shows a 11x improvement in potency against cMYC and a 12X reduction in toxicity in a key CD34+ acute toxicity in vitro assay over the company's previous advanced lead ITC-4819. • While further features remain to be optimized in this lead series, this optimization provides a strong lead compound against an elusive and incredibly valuable target. In

	the AR program, ITC-7982 shows an IC50 of 0.3 [.]M against an AR IVT assay and a ~6x window with a CD34+ toxicity assay. • Initial has made organizational changes to strengthen its team and reduce burn. In March, Dan Pierce, Ph.D. joined Initial as Chief Scientific Officer, coming from Bristol-Myers Squibb, where he was Vice President of Translational Medicine in Oncology; prior to that he led translational medicine work in degraders at Celgene. Personnel restructuring has also resulted in $1M savings over a 1-year period (2Q24-1Q25).

C.6 MARLINSPIKE THERAPEUTICS

Quarter	**Company Progress Update**
Q4 2021	• The company was incorporated in February 2022 and all signed up with Baylor and founders. • High throughput screening will start next month at ATP R&D. • Further patents are being filed. • An interim chemist is in place, and the company is recruiting for a Head of Chemistry.
Q1 2022	• Marlinspike was incorporated in February 2022 and high-throughput screening will start next month at ATP R&D. • Further patents are being filed. • An interim chemist is in place and the company is recruiting for a head of Chemistry.
Q2 2022	• High throughput screening (HTS) is being undertaken for the DHX15 target, and DHX38 was nominated as an additional target. Marlinspike hired a head of chemistry who will start in October.
Q3 2022	• In the quarter, Marlinspike established its biochemistry and computational biology platform. • High throughput screening was completed for DHX15, with hits identified and being validated. • IP is being filed for several approaches, including hit matter. • Marlinspike has hired Alessandro Boezio as head of chemistry. Alessandro has deep expertise in medicinal chemistry and drug discovery.

Q4 2022	• In the quarter, Marlinspike established its biochemistry and computational biology platform. • High throughput screening was completed for DHX15, with hits identified and being validated. • IP is being filed for several approaches, including hit matter. • Marlinspike has hired Alessandro Boezio as head of chemistry. Alessandro has deep expertise in medicinal chemistry and drug discovery. • Two additional hires are also in place.
Q1 2023	• Marlinspike established its biochemistry and computational biology platform. • High throughput screening was completed for DHX15, with hits identified and being validated. • Based on hit matter so far, screening will continue for additional DHX15 scaffolds. • IP is being filed for several approaches, including hit matter. • The company is starting on the DHX 38 HTS and the third screen is being planned around an 10 approach and DEAD Box Helicases, e.g. DDX 46. • Marlinspike made three additional hires in the quarter. The company is also recruiting a new head of Biology. Marlinspike will move into shared space with Intergalactic in May 2023.
Q2 2023	• Marlinspike made good progress in its work to build an in-house platform for the Helicase family of targets. • The company conducted screening for additional DHX15 scaffolds, with some of the hits entering the lead optimization stage. • The company has commenced DHX 38 high throughput screening, with a third screen planned around an immuno-oncology approach and DEAD Box Helicases, e.g., DDX 46. Marlinspike made four additional hires in the quarter and continues its recruiting efforts for a head of Biology position.
Q3 2023	• Marlinspike has continued the expansion of its internal biology and chemistry capabilities as well as its RNA helicase platform. • For DHX15, Marlinspike has identified sub-micromolar inhibitors of ATPase and helicase unwinding activity and is driving towards more potent inhibitors. • For its most advanced series, Marlinspike has demonstrated covalent binding to DHX15. The DHX15 program is transitioning to lead optimization.

	• For DHX38, Marlinspike has identified multiple series from its high throughput screening efforts and is currently in hit-to-lead. • Given the shared homology of DHX15 and DHX38, Marlinspike is leveraging learning from the DHX15 program to accelerate lead identification for DHX38. • Marlinspike hired a head of Biology this quarter and is currently focused on expanding the biology team.
Q4 2023	• No significant changes since the prior quarter.
Q1 2024	• Marlinspike's DHX 15 project progressed well, with cellular activity shown in appropriate cell line models and initial data suggesting that there is favorable PK in mice and rats. • Screening has been established for DHX38, and the company is exploring SF3B1, DDX46, and a potential third target to complete the pipeline and platform build. • The company continues its major ongoing effort to create an IP estate around RNA helicases and novel chemistry approaches, including covalent inhibitors targeting the lysine within the ATPase pocket and Cysteine 190. • Emerging data and IP filings will enable Marlinspike to uncloak and share more information. • The company is already receiving interest from a number of strategics including AZ, Roche/Genentech, and Lilly.
Q2 2024	• Marlinspike's DHX 15 project continued to progress well. • Screening assays for DHX38 are being redesigned as there is limited activity using RNA unwinding as a readout. • The company has now nominated SF3B1 as a target, and screening for small molecules has started. • Marlinspike has now filed five patents and one more is in progress.
Q3 2024	• The Lysine 166 series was discontinued due to ATP competition and inability to get cellular activity. • A new series, C190, is not ATP competitive and at 5 uM kills MYC dependent cells, as expected from synthetic lethality screens. • Marlinspike implemented a codeset to assess the target and MoA specific RNA mis-splicing profile as PD assay.

	• A new series engages the RNA mis-splicing profile as expected and suggests cell kill is on target. • As a new series needs only ~10x improvement in potency, the company anticipates that a DC will be achievable in 12-18 months. Structure-based drug design is essential, and the company has been engaged in ongoing efforts to arrive at a solved structure with compound bound. The problem is now understood, and two strategies with high probabilities of yielding are being pursued. • Screening assays for DHX38 are being redesigned given limited activity using RNA unwinding as a readout; this work is ongoing. • The company has now nominated SF3B1 as a target, and screening for small molecules has started. • Marlinspike has now filed five patents and one more is in progress.
Q4 2024	• Marlinspike continued work to implement of a codeset to assess the target and MoA-specific RNA mis-splicing profile as PD assay; the project remains on track for a development candidate (DC) nomination in 2026. • In the DHX38 program, Marlinspike now has potent, less than 200nM binders to SF3B1 in cell killing assays, with improving Pk properties. • The company aims to obtain in-vivo proof of concept in 1Q25 with a goal of DC nomination in 4Q25. • ATP is planning to merge Marlinspike into Nereid Therapeutics, which is also based in the Boston area.
Q1 2025	• Marlinspike identified covalent SF3B1 inhibitors that adduct its Cys1111: kill myc dependent human breast cancer cells (SUM159) <10nM with 100-fold separation from non-Myc dependent cells and completely spares SUM159 cells where Cys1111 has been mutated to serine. • PK-PD invivo experiments have demonstrated >3- day duration of pharmacodynamic effects and target engagement by CETSA over the entire dosing interval. • These inhibitors are stable in mouse and human blood and with acceptable reactivity to cysteine. Human ADME and mouse PK is acceptable. • Toleration studies and in vivo efficacy in mouse (the inhibitor kills mouse breast cancer cells PYMTM at <5nM) will commence in 2Q. • Selectivity cysteine proteomics will be done in 2Q, but the starting hits only adducted 3 other cysteines above background. DC nomination is still on track for 4Q25.

C.7 RED QUEEN THERAPEUTICS

Quarter	Company Progress Update
Q3 2021	• A potent clinical candidate has been selected that completely prevents SARS-CoV-2 infection of cells at less than 150nM concentration. • Preclinical development has started, with GLP toxicology studies planned for January 2022 and IND filing planned for 2Q22. • The proof of concept will be reduction of viral load in naturally infected COVID patients. • The Emergency Use Authorization (1H23) application will be based on prevention of infection in exposed pods.
Q4 2021	• RQ-01 IND filed is currently set for July but will need a rat tox slot at Wuxi to open in May to hit that mark. • Key technical milestones: i) a solubilizing formulation base (68mg/ml has been identified); ii) drug has shown to potently I(C50<10nM) prevent delta and omicron infection of cells; iii) drug pretreatment has reduced viral load at 24 and 48 hours in throat by >95% after a single intranasal dose in hamsters.
Q1 2022	• The SARS CoV-2 clinical candidate, RQ-01, after three daily doses administered nasally, substantially and similarly reduced viral load in the lung of hamsters challenged with 100,000 delta virus particles (a massive number!) when dosed 0.5 hours prior, 12 hours post, and 24 hours post infection. • In a separate study, a single dose at one and 10mg/kg 4 hours prior to Washington variant challenge reduced viral load in nasal swabs at 24 hours by 89% and >95% respectively, and by 77% and >90% at 48 hours. • These datasets support start of a Phase 1 POC in COVID positive patients by November 2022.
Q2 2022	• A reply from the US FDA to Red Queen's pre-IND submission for RQ-01 in SARS-CoV-2 is expected in July 2022, and the IND is on track for submission in November 2022. • Key technical milestones in the quarter include the identification of the clinical formulation; the finding that RQ-01 potently prevents infection from Delta and

	Washington variants in hamsters; and successful (uneventful) safety tests in dogs and rats.
Q3 2022	• Red Queen's IND submission to FDA for RQ-01 in SARS-CoV-2 is targeted for end of January 2023. • Red Queen has hired as CEO Ron Moss, an MD with extensive biopharmaceutical leadership, public health, and regulatory experience. Ron joins Red Queen from Adamis Pharmaceuticals, where he was Chief Medical Officer; prior to Adamis, he was CEO of Ansun Biopharma, a clinical-stage company focused on infectious diseases (specifically respiratory viruses) and oncology.
Q4 2022	• Red Queen's IND submission to FDA for RQ-01 in SARS-CoV-2 is targeted for 2Q23. • Exciting new data with RQ-01 show that it fully protects against the pathophysiology in the lungs of hamsters caused by SARs-CoV-2 viral infection. • In addition, Red Queen has identified a new peptide that potently inhibits influenza H5N1 viral infection of primary human epithelial airway cells. • Finally, a potential clinical candidate anti-RSV peptide was identified.
Q1 2023	• Red Queen's IND submission to FDA for RQ-01 in SARS-CoV-2 is targeted for June 2023 with first patient in mid-September. • Testing of influenza, para influenza, Ebola, and RSV is continuing.
Q2 2023	• An IND for phase 1 studies of Red Queen's lead program RQ-01 was submitted to the US Food and Drug Administration (FDA) in mid-July and FDA approval was received on August 14. • First patient enrolled is expected by mid-September with an interim readout from 15 healthy volunteers in 4Q23. • On the business development front, Merck and Sanofi are waiting for phase 1 data. After initial conversations, Pfizer requested more information on the platform for non-COVID respiratory viruses. • The US Department of Health and Human Services' Biomedical Advanced Research and Development Authority (BARDA), which supports development of therapies and other tools to address public health emergencies, has requested a proposal from Red Queen. The company anticipates a determination of award from BARDA in September.

Q3 2023	• Clinical trial RQ0l-001 (POC) is underway with 10 subjects randomized and six sites now open. DSMB reviewed safety data and found no issues of concern. • Work is ongoing for a statistical analysis plan to be used in the next interim, including QPCR.
Q4 2023	• Dosing and follow up for the proof-of-concept clinical trial evaluating nasally administered RQ0l-001 in low-risk patients with mildly symptomatic SARS-CoV-2 infection is now complete, and analysis of data will be finalized in 2Q2024. Interim data showed placebo-like safety and no systemic absorption. • Assuming positive PoC trial results, Red Queen leadership will request an FDA meeting in 3Q2024 to discuss the registration plan for post-exposure prophylaxis in COVID19-exposed individuals. • The company is currently exploring licensing and investing options and held conversations at JPM with Shionogi, Pfizer, and Merck.
Q1 2024	• Data analysis for the Phase I trial of nasally administered RQ-01 in low-risk patients with mildly symptomatic SARS-CoV-2 is almost complete and will be completed by mid-May. • A preliminary analysis suggests placebo-like safety and evidence of efficacy. • Viral clearance was higher in the 10mg than the 5mg dose and both were higher than placebo. • The first public presentation of the data will take place at the American Society for Microbiology conference in June. • Red Queen is also progressing 2 additional candidates covering at least 5 significant respiratory diseases. • The company has been awarded a $740,000 BARDA grant to look at pulmonary delivery of its anti-flu peptide and is actively pursuing partnering discussions.
Q2 2024	• Data analysis for the Phase I trial of nasally administered RQ-01 in low-risk patients with mildly symptomatic SARS-CoV-2 was completed in the quarter and publicly presented at the American Society for Microbiology conference on June 16. • The final analysis confirmed placebo-like safety and evidence of efficacy, with viral clearance higher in the 10mg than the 5mg dose and both higher than placebo. • The company is planning to publicly unveil on August 6.
Q3 2024	• In the quarter, Red Queen made substantial progress in key programs.

	• For the lead program, RQ-01 in SARS-CoV-2, the company commenced planning discussions with the FDA for its proposed Phase 2 trial studying RQ-01 in immunocompromised individuals. • In influenza, the company has identified a development candidate lead ahead of schedule and is preparing to start preclinical studies in early 2025. • Red Queen and Dana-Farber Cancer Institute (DFCI) expanded their licensing agreement to encompass recent RSV therapeutic developments made at DFCI as well as advanced formulation approaches. • ATP publicly unveiled Red Queen in August 2024, and the announcement received widespread coverage in the trade and business press and generated interest from several investors with whom conversations are ongoing.
Q4 2024	• Work continues on Red Queen's pan-influenza BARDA contract, and the company expects to name a lead candidate in 1Q25 and then progress to early preclinical work. • Peptide synthesis and analysis has been successfully transferred to ATPL. • In the company's lead program, RQ-01 for SARS-CoV-2, Bachem successfully transferred production from Red Queen's former off-shore supplier. • Red Queen is submitting a proposal under a recent BAA for further work on RQ-01 and expects a decision on that in 3Q25.
Q1 2025	• In the quarter, work continued on Red Queen's pan-influenza BARDA contract. • The company expects to name a lead pan-influenza candidate in 2Q25 and then progress to early preclinical work.

EXHIBIT W

CONSENT DATED NOVEMBER 11, 2019

Pursuant to the terms and provisions of (i) the First Amended and Restated Limited Partnership Agreement, as amended, of Apple Tree Partners IV, L.P. (the "Partnership"), (ii) the Management Agreement, as amended, between the Partnership and Apple Tree Venture Management, LLC (the "Management Agreement"), and (iii) the Letter Agreement, as amended, between Dr. Seth L. Harrison ("Dr. Harrison") and the holders of Preferred Units of the Partnership ("Preferred Units"), the undersigned, constituting the holders of a majority of the Preferred Units, hereby ratify, confirm and consent to the grant by Stoke Therapeutics, Inc. ("Stoke") to Dr. Harrison on September 10, 2019, of options to purchase 29,555 shares of common stock of Stoke at an exercise price of $28.80 per share (the "Stoke Options") and the grant by Akero Therapeutics, Inc. ("Akero") to Dr. Harrison on November 8, 2019, of options to purchase 26,000 shares of common stock of Akero at an exercise price of $19.97 per share (the "Akero Options"); provided that any net cash benefit realized from the Stoke Options and the Akero Options shall reduce the amount of the management fee payable by the Partnership to the Management Company pursuant to and in accordance with the terms of such Management Agreement.

This Consent may be executed in any number or counterparts, each of which shall be deemed an original and all of which taken together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the undersigned have executed this Instrument as a deed on the day and year first above written.

Executed as a deed by:

Ezbon International Limited

By: _____

Title: DIRECTOR on behalf of M.C.R.S limited

In the presence of:

_____

Witness

Name: Erma Alkiviadou

Executed as a deed by:

Blue Horizon Enterprise Ltd.

By: _____

Title: DIRECTOR on behalf of M.C.R.S limited

In the presence of:

_____

Witness

Name: Stavri Kyriacou

EXHIBIT X

CONSENT DATED DECEMBER 28, 2020

Pursuant to the terms and provisions of (i) the First Amended and Restated Limited Partnership Agreement, as amended, of ATP Life Science Ventures, L.P. (the "Partnership"), (ii) the Management Agreement, as amended, between the Partnership and Apple Tree Venture Management, LLC (the "Management Agreement"), and (iii) the Letter Agreement, as amended, between Dr. Seth L. Harrison ("Dr. Harrison") and the holders of Preferred Units of the Partnership ("Preferred Units"), the undersigned, constituting the holders of a majority of the Preferred Units, hereby ratify, confirm and consent to the grant by Stoke Therapeutics, Inc. ("Stoke") to Dr. Harrison on June 3, 2020, of options to purchase 14,777 shares of common stock of Stoke at an exercise price of $26.53 per share (the "Stoke Options") and the grant by Akero Therapeutics, Inc. ("Akero") to Dr. Harrison on June 1, 2020, of options to purchase 13,000 shares of common stock of Akero at an exercise price of $25.20 per share (the "Akero Options"); provided that any net cash benefit realized from the Stoke Options and the Akero Options shall reduce the amount of the management fee payable by the Partnership to the Management Company pursuant to and in accordance with the terms of such Management Agreement.

This Consent may be executed in any number or counterparts, each of which shall be deemed an original and all of which taken together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the undersigned have executed this Instrument as a deed on the day and year first above written.

Executed as a deed by:

Ezbon International Limited

By: _____

Title: Director, on behalf of M.C.R.S. Limited

In the presence of:

_____

Witness

Name: Erma Alkiviadou

Executed as a deed by:

Blue Horizon Enterprise Ltd.

By: _____

Title: Director, on behalf of M.C.P.S. Limited

In the presence of:

~~E Constantinou~~

Witness

Name: Elena Constantinou