Docket #0452 Date Filed: 03/06/2026

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re: Apple Tree Life Sciences, Inc., *et al.*,[1] Debtors.	Chapter 11 Case No. 25-12177 (LSS) (Jointly Administered) **Re: Docket No. 310**

NOTICE OF FILING OF UNREDACTED FUNDING OBJECTION

PLEASE TAKE NOTICE that, on February 12, 2026, 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 (together, the "**LPs**"), filed the *[REDACTED] Objection of Rigmora Biotech Investor One LP and Rigmora Biotech Investor Two LP to Debtors' Motion for Entry of an Order (I) Authorizing Use of Funds to (A) Fund Portfolio Companies, (B) Pay Management Company Expenses and (C) Pay Chapter 11 Expenses, and (II) Granting Related Relief* [Docket No. 310] (the "**Redacted Funding Objection**") with the United States Bankruptcy Court for the District of Delaware (the "**Court**").

PLEASE TAKE FURTHER NOTICE that after conferring with the Debtors, the LPs hereby file an unredacted version of the Redacted Funding Objection (the "**Unredacted Funding Objection**") attached hereto as **Exhibit 1**.

[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); Nine Square Therapeutics, Inc. (4503); and Nereid Therapeutics Incorporated (8493). The location of the Debtors' service address in these chapter 11 cases is 230 Park Avenue, Suite 2800, New York, NY 10169.

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Dated: March 6, 2026
Wilmington, Delaware

Respectfully Submitted,

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Exhibit 1

Unredacted Funding Objection

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

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

OBJECTION OF RIGMORA BIOTECH INVESTOR ONE LP AND RIGMORA BIOTECH INVESTOR TWO LP TO DEBTORS' MOTION FOR ENTRY OF AN ORDER (I) AUTHORIZING USE OF FUNDS TO (A) FUND PORTFOLIO COMPANIES, (B) PAY MANAGEMENT COMPANY EXPENSES AND (C) PAY CHAPTER 11 EXPENSES, AND (II) GRANTING RELATED RELIEF

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 objection (the "**Objection**") to the *Debtors' Motion for Entry of an Order (I) Authorizing Use of Funds to (A) Fund Portfolio Companies, (B) Pay Management Company Expenses and (C) Pay Chapter 11 Expenses, and (II) Granting Related Relief* [Docket No. 228] (the "**Second Funding Motion**")[2] and state as follows:[3]

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[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); Nine Square Therapeutics, Inc. (4503); and Nereid Therapeutics Incorporated (8493). The location of the Debtors' service address in these chapter 11 cases is 230 Park Avenue, Suite 2800, New York, NY 1016f9.

[2] The Debtors' accompanying declaration in support of the Second Funding Motion was filed at Docket No. 229 (the "**Mandarino Decl.**").

[3] Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Second Funding Motion.

PRELIMINARY STATEMENT

1. The Second Funding Motion suffers from the same insurmountable, foundational error as every other aspect of the chapter 11 cases for ATP Life Science Ventures, L.P. (the "**Fund**") and ATP III GP, Ltd. (the "**GP**" and, together with the Fund, the "**Fund-Level Debtors**"): it fails to reckon with the actual legal status of the Fund-Level Debtors, and what that means for assets held in the name of the Fund, its limited partners' rights, and the GP's obligations.

2. In this motion, the error of filing the Fund-Level Debtors manifests itself in the Debtors' flawed assumptions about their "estates" and their mistaken view that those "estates" include assets that were never the Debtors' to begin with. The Debtors' position violates fundamental principles of bankruptcy law that apply whenever a debtor seeks refuge in this Court, and these unorthodox cases are no exception.

3. Like any other debtor, these Debtors are subject to the rules of this Court—including the limits on its jurisdiction, the terms of the Bankruptcy Code, and the central principle at the heart of section 541 that a debtor cannot have greater property rights in its chapter 11 estate than it had prepetition. A debtor that did not own a property interest prior to filing does not acquire one by virtue of submitting its petition; a debtor that holds someone else's property on trust does not suddenly become the owner of that property by entering chapter 11. Those basic rules allow this Court to restructure the estates of those who genuinely need its assistance, and prevent others from exploiting the unique powers of being an incumbent debtor in possession to take and use property that does not belong to them.

4. What is astonishing about these chapter 11 cases is that they were filed by the GP and the Fund in complete disregard of these principles, and of the Cayman and bankruptcy law that governs the rights that the GP and Fund purport to assert. The law itself is straightforward: as a matter of undisputed black-letter Cayman law, the Fund *itself* cannot and does not own property

or hold assets, in its own right; therefore under section 541(a), it has no prepetition assets to include in a post-petition estate. As a matter of undisputed black-letter Cayman law, the GP holds assets in the Fund's name on trust for the benefit of the LPs; therefore, under section 541(d), assets of a trust are an exception to the creation of the estate and excluded. As an exempted limited partnership under the law of the Cayman Islands (an "**ELP**"), the Fund is a creature of Cayman law and has no more rights than Cayman law permits; the GP may acquire or hold assets in the Fund's name on behalf of its limited partners but neither the GP nor the Fund owns that property.

5. The Debtors offer no legal or factual basis to support the conclusion (a conclusion is the very premise of their Second Funding Motion, and of the Fund-Level Debtors' cases overall), that assets denominated as assets "of the Fund" are, in fact, assets of the estates and within the jurisdiction of this Court. They cannot and do not dispute that applicable non-bankruptcy law determines the extent of a debtor's interest in property; that Cayman law governs here; or that as a matter of Cayman law, an ELP like the Fund cannot and does not own property itself, and the GP holds any assets in the name of the Fund on trust for its limited partners. As to applicable bankruptcy law, Debtors cannot and do not meaningfully dispute that under section 541(a), a debtor's estate does not include property it does not own, or under section 541(d), assets held in trust are not part of the estate. On this undisputed law, the Fund—which owns no assets—has no assets in its estate, and the GP—which holds assets only on trust for the LPs—has none either.

6. In short, none of the property held by the GP in the Fund's name and in trust for the LPs—not their capital contributions, nor the equity interests in each of the Fund's Portfolio Companies, nor any other "Fund" asset (collectively, the "**Fund Assets**")—is property of any Debtor's estate. As the LPs have said since the first-day hearing and before: the Fund-Level

Debtors do not belong in this Court, and they cannot bring into this Court assets that never belonged to them in the first place.

7. A funding motion may be an odd place to reexamine these core principles of bankruptcy and Cayman funds law, but those questions arise here because these Debtors have assumed rights in property that they do not have, and seek to use funds that are not within the jurisdiction of this Court or within the *res* of their estates. The very premise of their motion is mistaken.

8. Because property that is excluded from the Debtors' estates is outside the jurisdiction of this Court, the Court cannot grant the relief they seek. The Court lacks *in rem* jurisdiction over the $74 million in Fund Assets that the Debtors seek permission to use and lacks statutory authority to grant the relief sought under section 363(b), because the assets sought to be used are not property of any estate.

9. To make that point is not, to be clear, to say that the Debtor Portfolio Companies cannot seek funding or should not be funded; like any other legitimate chapter 11 debtor, any of the Portfolio Companies is free to make its case for funding to its existing investors (including the LPs) and to the market at large.[4] But the Debtors do not have a right to force the use of funds that are not theirs, are not within the estates or the jurisdiction of this Court, and are held in trust for others. The trust beneficiaries—the LPs—could *consent* to the use of funds within the chapter 11 cases, but those funds cannot be used over the LPs' objection.

10. Even in a counterfactual world, in which this Court were to disregard Cayman law and the section 541(a) and (d) principles, the Debtors' Second Funding Motion still should be denied

[4] The Portfolio Company debtors are Apertor Pharmaceuticals, Inc., Initial Therapeutics, Inc., Marlinspike Therapeutics, Inc., Red Queen Therapeutics, Inc., Evercrisp Biosciences, Inc., Nine Square Therapeutics, Inc., and Nereid Therapeutics Incorporated (collectively, the "**Debtor Portfolio Companies**").

because it seeks to use funds for purposes that are prohibited by the Limited Partnership Agreement of the Fund (as amended from time to time, the "**LPA**"), which remains in force. The LPA restricts precisely the kinds of maneuvers the GP is attempting here. It prohibits the redirection of capital called for one approved purpose and company to others that have failed to satisfy that contractual prerequisite and provides that the Fund "shall not borrow money" or provide guarantees without consent of the LPs. As the Court anticipated, section 541(c)(1) does not relieve Debtors of their obligations under the LPA, including the obligation to adhere to the contractual limits on spending and budgets.

11. The relief requested in the Second Funding Motion can and should be denied as a matter of law: the funds are unavailable due to undisputed points of law and unambiguous terms of the LPA, and no factual showing can overcome that legal bar. But the facts are not on the Debtors' side either. They seek tens of millions of dollars in funding for companies that are already many years and dollars into their investment theses, with little to show for it in terms of research progress, and nothing at all to show in terms of market interest. The Fund may have had some early successes in companies led day-to-day by another management team (who departed before these investments were made), but the Debtor Portfolio Companies followed a different path. Their story is one of promising ideas, stalled by poor management and an inability to deliver results, even after many years and many tens of millions of dollars. At this point, a good idea is not enough to warrant many millions more in investment—the opportunity cost to other companies and ideas not before this Court is too great, and companies seeking funding should be prepared to offer concrete plans, with achievable measurable goals, led by credible management—none of which is so far present here.

12. The LPs have no wish to conduct their investments by motion practice and litigation. They have invested billions of dollars in this Fund—including *all* of the equity in the Debtor Portfolio Companies.[5] For the GP to question the LPs' commitment to investing in promising biotech and life sciences companies would be laughable if the stakes were not so high. The LPs have invested, and will continue to invest, in promising ideas, as well as the scientists, doctors and researchers who generate, develop, test, and see them through. There are billions of dollars behind the LPs' commitment to science. It is hard to look at the amount of money invested broadly, consistently, and over fourteen years, and seriously doubt that the LPs were and are committed investors in this space. Investors who truly face a "liquidity shortage," as the GP likes to claim here, typically would not transfer nearly $100 million in cash in just five days, or have invested over $820 million with that GP in the past four years alone.[6]

13. The LPs can invest more. They would have done so already, had the GP stepped down or had the Cayman Trial proceeded to wind-up this Fund and create room for a new structure, new manager, and future investments. But as the LPs reach the end of their contingent subscription to this Fund, they do not choose to give more than that to this manager.[7] Understandably, they do not trust a GP who has failed to recognize and honor the limit of their capital commitment to this closed-end fund, their rights to review and approve budgets, and their desire—protected by

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[5] Since Amendment No. 13, which was signed in 2019, the Fund has operated on a pool system. Ex. G, LPA Amendment No. 13 (adding ¶¶ 17(a), (b). For certain pools, including Pool V-1 and V-2 where the Debtor Portfolio Companies sit, the LPs have contributed 100% of the capital, and Dr. Harrison and his trust have contributed none. *See* Ex. E, Chancery Court Post. Trial Op., Dec. 5, 2025, at 12–13.

[6] Ex. A, Opening Report of Dr. Strebulaev, at 23.

[7] Subject to appeal, including as to the LPs' position that their deemed contributions of hundreds of millions of otherwise distributable returns counted toward satisfaction of, and in fact exhausted, their contingent subscription.

Cayman law—to seek new management when their trust has been shattered and their confidence lost.

14. So, the LPs object to this request to fund Portfolio Companies subject to the whim of this GP and its conflicted advisors. Absent information and a showing of a valid business purpose, which Debtors have not made, the LPs will not make this funding consensually. And that funding cannot be ordered by this Court because it does not have jurisdiction over the assets and it violates the LPA. It should deny the motion, hear and grant the motions to dismiss and to lift the stay, and allow the Debtor Portfolio Companies to continue their reorganization here in Delaware, without the overhang of this GP/LP dispute, and to seek funding elsewhere.

FACTUAL BACKGROUND

15. The long history of this dispute is set forth elsewhere, including in the LPs' *Amended Motion of Rigmora Biotech Investor One LP and Rigmora Biotech Investor Two LP for an Order Dismissing the Bankruptcy Cases of ATP Life Science Ventures L.P. and ATP III GP, Ltd* [Docket No. 205] (the "**Amended Motion to Dismiss**") and *Motion of Rigmora Biotech Investor One LP and Rigmora Biotech Investor Two LP for Relief from the Automatic Stay* [Docket No. 125] (the "**Lift Stay Motion**"), and are not repeated here.

16. The bulk of the LPs' Objection to the Second Funding Motion turns on questions of Cayman, bankruptcy, and contract law, as addressed in argument below.

17. The most relevant facts are summarized here:

18. The structure, management, and operation of the Fund are controlled by the terms of the LPA dated November 1, 2012, which is governed by the law of the Cayman Islands and is expressly subject to the Cayman Islands' EXEMPTED LIMITED PARTNERSHIP ACT ("**ELP Act**"). *See* Ex. B, LPA, ¶ 18(g)(i). The LPA has been amended 22 times. The GP, a Cayman entity owned and controlled by Dr. Harrison, holds the legal title to the Fund Assets on statutory trust for

the benefit of the limited partners (principally, the LPs) and owes fiduciary duties to the Fund's limited partners. Docket No. 126-37, *Kuwait Ports Authority v Port Link GP Ltd* [2023 (1) CILR 50] at [54], [56]; *see generally* Docket No. 126, Phillips Decl. ¶¶ 24(b), 26–27, 57–81[8]; Ex. C, Chancery Court Pre-Trial Order, Sept. 11, 2025, ¶¶ 13–15.

19. Under the LPA, the GP can only call capital for Portfolio Companies for a project and within a budget approved by the LPs, up to the LPs' contingent subscription amount. Ex. B, LPA, ¶ 5(a)(i); Ex. D, LPA Amendment No. 3, at 2 (amending LPA ¶ 5(a)(ii)(E)). The LPs have an absolute contractual right to approve or disapprove budgets proposed by the GP. Ex. E, Chancery Court Post-Trial Op., Dec. 5, 2025, at 75–76 ("The LPA grants Rigmora the discretion to approve budgets. . . . [N]one of the relevant tests support implying a good faith term."). This protection reflects the LPs' role as effectively the Fund's only source of capital: the LPs have contributed approximately $2.4 billion in cash, representing 98% of the Fund's overall capital and 100% of the capital for the Debtor Portfolio Companies. Ex. E, Chancery Court Post-Trial Op., Dec. 5, 2025, at 5, 12, 14, 17 n.99, 47; *see Declaration of Dr. Seth L. Harrison In Support of Chapter 11 Petitions and First Day Motions* [Docket No. 18] (the "**First Day Decl. of Dr. Seth Harrison**") ¶¶ 10, 27.[9]

20. The capital commitments to the Fund are capped at the limited partners' contingent subscriptions, and the GP cannot raise new equity or issue additional debt without the LPs' consent. Ex. B, LPA, ¶¶ 2(h)–(i) 6(e); Ex. G, LPA Amendment 13, ¶ 9; Ex. H, LPA Amendment

[8] Cites are to the Phillips Decl. for ease of reference and include citation to the authorities referenced and quoted therein.

[9] Although Dr. Harrison has "invested" some capital into the Fund, he has done so primarily through an interest-free loan from the LPs, which Dr. Harrison repaid through reductions of ATVM's Management Fee or by assigning his Fund Preferred Units and distribution rights to the LPs. *See* Ex. E, Chancery Court Post-Trial Op., Dec. 5, 2025, at 10; Ex. F, LPA Amendment No. 14, ¶¶ 5, 6(c).

20, ¶ 5. The GP for years refused to manage the Fund in accordance with those limits.[10] When the LPs raised concerns that the GP was not managing the Fund in accordance with the agreed principles, the GP bristled, sued, and did not adjust its management.[11]

21. Although the Fund had some early successes, the management teams for those companies left in 2019, and ATP[12] continued on with different teams running the newer, early-stage companies, many of which are now before this Court as debtors.[13]

22. At the Chancery Court trial, Dr. Harrison testified that, "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." Ex. J, Chancery Court Trial Tr., at 29:10–13. Unsurprisingly, Dr. Harrison's shift to a team less focused on investment backfired as, starting with the 2020 vintage, many of the Portfolio Companies began to falter. Specifically, early-stage companies—including *all* of the Debtor Portfolio Companies—were exhausting their budgets or were missing the milestones embedded in the relevant investment memoranda and SPAs.[14] The value of these

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[10] *See* Ex. I, Chancery Court Defendant's Post-Trial Brief, at 3–4.

[11] *See, e.g.*, Ex. J, Chancery Court Trial Tr. at 361:9–363:16 (Rybolovlev) (noting Harrison "was pretty negative" in conversations about staying within the LPs' commitments to the Fund); *id.* at 364:22–365:7 (Rybolovlev) ("Q. How did your discussions [about how close the Fund was to exhausting the LPs' commitments] go? A. Pretty tensely."); *id.*at 117:20–24 (Harrison, by video) ("Q. Did you do anything to assess the amount by which the fund's commitments to invest in its portfolio companies exceeded $2.5 billion? A. No. Not specifically, no.").

[12] This term has the same meaning ascribed to it in the Chancery Court's Post-Trial Opinion.

[13] *See Biography of Samuel Hall Talk*, SCION LIFE SCIENCES, https://www.wsj.com/business/financial-services-roundup-market-talk-f8a6d816 (showing that Samuel Hall was instrumental in the successes of Syntimmune, Stoke, Chinook, Marengo, and Ascidian, and that Hall left ATP in 2019); *See Biography of Aaron Kantoff*, SCION LIFE SCIENCES, https://www.wsj.com/business/financial-services-roundup-market-talk-f8a6d816 (showing that Aaron Kantoff was instrumental in the successes of Akero, Corvidia, Syntimmune, Stoke, Marengo, and Ascidian, and that Kantoff left ATP in 2019); Ex. J, Chancery Court Trial Tr., 40:1–41:10 (Dr. Harrison describing the creation of the pool system in order to accommodate his new team).

[14] *See* Ex. J, Chancery Trial Tr., at 195:8–15 (ATP expert, Mark Robbins, testifying that all early-stage companies missed milestones in their investment memoranda); Ex. K, Corrected Opening Report of Dr. Rimm, ¶¶ 85–87, Figure 8 (report of LPs' expert Dr. Ilona Rimm noting that Evercrisp failed to meet milestones from its investment memorandum and that ATP had called capital for tranches with unmet milestones); *id.* ¶¶ 89–91, Figure 9 (same for Initial); *id.* ¶¶ 99–101, Figure 11 (same for Red Queen); *id.* ¶¶ 77–79, Figure 6 (same for

preclinical Portfolio Companies was declining.[15] Third-party investors repeatedly declined to invest in the Debtor Portfolio Companies because of their lack of commercially relevant scientific progress.[16] The GP acknowledged that challenge internally, but publicly tried to blame the Portfolio Companies' failure to generate interest from third-party investors on the nationality of the LPs' beneficial owner.[17]

23. In mid-May 2025, commercial negotiations instigated by the GP over reallocating funding from failing early-stage investments to more promising ones broke down when the GP withdrew its proposal after the LPs refused to grant it expanded control over funding decisions. Ex. U, Email Correspondence, May 11, 2025, at 3 ¶ 1(d), 3; Ex. E, Chancery Court Post-Trial Op., Dec. 5, 2025, at 32. Despite his testimony in the Chancery Court trial that he had proposed

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Apertor, with called capital for tranches with delayed milestones); Docket No. 229, Mandarino Decl. ¶ 9, Table 1 (listing "Unfunded Approved Budget" as "N/A" for both Nereid and Nine Square), *id.* ¶ 12 ("Regarding Debtors Nereid and Nine Square . . . the Partnership Debtor does not have further financial commitment under the Series A."); Ex. L, March 7, 2024 Correspondence Between S. Harrison and P. Eisenberg, at 2 (Dr. Harrison remarking with regard to a missed milestone by Red Queen—whose project was to develop a drug to treat COVID-19—that "covid is stale, even resented . . . I don't understand how a miss is not a miss."). The SPAs of Aethon and Marlinspike specifically identified milestones and made funding obligations contingent on the successful achievement of those milestones, among other conditions. *See* Ex. M, Aethon Stock Purchase Agreement ¶¶ 1.2(b)–(e); Ex. N, Marlinspike Stock Purchase Agreement ¶¶ 1.2(b)–(f); Ex. O, Finkelman Dep. Tr., Oct. 3, 2025, at 126:4–10.

[15] *See* Ex. P, Opening Report of ATP Expert Rao at ¶ 50 (noting that "for twelve of the Portfolio Companies, the appraised fair values are essentially the invested capital," with minor adjustments including global devaluation based on performance of biotech indexes); *see also* Ex. Q, Pluris Valuation of Nereid, Jan. 31, 2025, ATP_00357796 at 357797 (valuing Nereid at $4,950,000); Ex. R, Pluris Valuation of Marlinspike, Jan. 31, 2025, at 69 (valuing Marlinspike at $1,240,000).

[16] *See, e.g.*, Ex. S, Jardine Dep. Tr., Aug. 4, 2025, at 188:11–23; 200:15–201:17; 202:11–203:1 (describing declining interest in SARS-CoV-2 projects, such as Red Queen's, and unsuccessful business development efforts for Red Queen generally); Ex. J, Chancery Trial Tr. at 226:2–4 (Strebulaev); Ex. A, Opening Report of Dr. Strebulaev ¶¶ 62–63; *see generally* Ex. T, Email from P. Jardine to P. Eisenberg, Oct. 28, 2025, at 1 ("[I]t is the strangest thing with ATP companies but I see 'strategies' around budget and cash out options and raising new money maybe but I don't see plans to exit and make money.").

[17] *See, e.g.*, Ex. J, Chancery Court Trial Tr. at 174:4–8 (Yanchik) (Fund venture partner recalled communicating to Dr. Ehlers that "the Russia factor may be an excuse for other challenges that ATP presents").

reallocation to address disagreements in the budgeting process,[18] Dr. Harrison privately acknowledged that reallocation was best for the Fund. *See* Ex. V, April 4, 2025 WhatsApp Exchange between S. Harrison and A. Batarina, at 2 ("[R]eallocation from preclinical to clinical…is the right business decision for the portfolio in ANY financing context."). That view was shared by Dr. Michael Ehlers, CEO of Ascidian, founder of Replicate, and former general ATP partner and Chief Scientific Officer; he advised Dr. Harrison that investing in early-stage companies, like the Debtor Portfolio Companies, "does not seem like the optimal capital allocation given where we are at in the fund." Ex. J, Chancery Court Trial Tr. at 414:23–415:20; *see also* Ex. W, Aug. 20 and Aug. 21, 2024 WhatsApp Exchange between S. Harrison and M. Ehlers, at 2 (Dr. Ehlers stating that funding or reserving money for early-stage companies is "nonsensical" since they are "sketchy in the likelihood of success" and recommending reallocating money toward more advanced endeavors as a way to "unlock some important value inflections"). In communications with ATP venture partner Joe Yanchik, Dr. Ehlers even candidly characterized the continued funding of Debtor Marlinspike as "Craziness. No drug in sight" among ATP leadership. Ex. J, Chancery Court Trial. Tr., at 414:6–22 (Ehlers); *see also* Ex. X, Aug. 20, 2024 WhatsApp Exchange between M. Ehlers and J. Yanchik, at 3. The Second Funding Motion now seeks to provide millions of dollars to these companies, in ways not contemplated by the May 30 Capital Calls, LPA, or Chancery Court. *See* ¶¶ 58–59 *infra*.

[18] *See* Ex. J, Chancery Court Trial Tr., at 97:19–99:2.

ARGUMENT

I. The Court Has Neither *In Rem* Jurisdiction Nor Statutory Authority to Approve the Proposed Funding Because the Fund Assets Are Not Property of Any Estate.

A. Cayman Law

24. The Cayman law at issue is the basic black-letter standard that governs the ELPs that are the backbone of the investment funds world. As one would expect from a legal regime whose rules govern the investment funds for staggering amounts of private capital, [19] Cayman law is clear, and its courts are sophisticated and consistent in interpreting it. The Cayman legal regime creates orderly expectations for limited partners and the general partners who manage their investments, and those rules are understood and applied consistently over time—and have been expressly clarified by recent decisions. Cayman law consistently recognizes, at every level, that the assets acquired or held through an ELP are held by its general partner on trust for its limited partners, in accordance with the terms of the relevant limited partnership agreement and Cayman statute.

25. The Debtors do not meaningfully dispute these points, and in fact have acknowledged them to Justice Asif and in submissions to Chancellor McCormick. But they did ignore the basic precepts of Cayman law in filing the Fund-level cases and asking this Court to take jurisdiction of the Fund Assets. Because that fundamental disregard for Cayman law and its consequences are at the very heart of the problem with these cases, it is important to summarize it here.

26. ***LPA***. By the terms of its LPA, Cayman law governs the Fund. The Fund is a duly-constituted ELP under Cayman law, with the GP serving in the capacity as its general partner. Ex. B, LPA, at 3, ¶ 2(f). Its limited partners and GP agreed to carry on the Fund as a partnership in

[19] *See Financial Services Roundup: Market Talk*, WALL STREET JOURNAL (Jan. 27, 2026), https://www.wsj.com/business/financial-services-roundup-market-talk-f8a6d816 (indicating that "the total number of private funds registered in the Cayman Islands reached 17,722 last year" and "Cayman funds ended 2024 with $16 trillion in assets").

accordance with the ELP Act. Ex. B, LPA, at Prelim. Statement (C). The Fund and the LPA are governed by Cayman law, including the ELP Act and the limitations therein. Ex. B, LPA, ¶ 18(g)(i). The GP is vested with exclusive authority as to the Fund's management, policies, affairs, and conduct of business. Ex. B, LPA, ¶ 2(b). Under Cayman law, that authority includes holding assets on trust for the limited partners, where the Fund, as an ELP, lacks personhood and cannot hold such assets itself.

27. ***Cayman Statute***. Like any Cayman ELP, the Fund is subject to the Cayman ELP Act, and to Section 16(1), which provides that *all* assets of an ELP are held by its general partner on trust, in accordance with the terms of the partnership agreement:

> 16(1). **Any rights or property** of every description of the exempted limited partnership, including all choses in action and any right to make capital calls and receive the proceeds thereof that is conveyed to or vested in or held on behalf of any one or more of the general partners or which is conveyed into or vested in the name of the exempted limited partnership **shall be held or deemed to be held by the general partner** and if more than one then by the general partners jointly, **upon trust as an asset of the exempted limited partnership in accordance with the terms of the partnership agreement**.

Docket No. 126-5, ELP Act § 16(1) (emphasis added); *see also* Docket No. 126, Phillips Decl. ¶ 51 (quoting Docket No. 126-5, ELP Act § 16(1)). For the avoidance of doubt, binding Cayman case law has instructed that "the only sensible construction of the words in ELPA § 16(1) is that the general partner of an [ELP] holds its assets on trust for all the limited partners."[20] "Property" as it is used in the ELP Act is understood to have a very broad meaning, which would include all

[20] *See* Docket No. 126-37, *Kuwait Ports Authority v Port Link GP Ltd* [2023 (1) CILR 50 at [51].

of the Fund Assets.[21] The role of a general partner of an ELP is to conduct business and enter into contracts on behalf of the ELP.[22]

28. ***Cayman Case Law***. In interpreting Section 16(1), Cayman courts have concluded that when the GP holds rights or property "upon trust as an asset of the exempted limited partnership" in accordance with the terms of its partnership agreement, it does so on behalf of and for the benefit of ***the limited partners***. As trust beneficiaries, the limited partners "have an equitable proprietary interest in the trust property and are entitled to have the trust duly administered in accordance with the trust instrument, if any, and the general law."[23] "[L]imited partners [of an ELP] have a proprietary interest in the partnership assets[.]"[24] An ELP's general partner is a trustee who "owes the fiduciary duties of a partner, agent, and trustee," directly to the limited partners.[25] The Cayman Courts consistently recognize that Section 16 of the ELP Act "creates a statutory trust."[26] The 2023 decision in *Kuwait Ports Authority v Port Link* is the leading case and is routinely cited for

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[21] *See* Docket No. 126-1, CAYMAN INTERPRETATION ACT (1995 Revision) § 3 (defining the term "property" for all Cayman statutes: "'property' includes money, goods, things in action, land and every description of property, whether real or personal; also obligations, easements and every description of estate, interest and profit, present or future, vested or contingent, arising out of or incident to property as above defined").

[22] Docket No. 126-5, ELP Act § 14(2); *see also* Docket No. 126, Phillips Decl. ¶ 50 (citing Docket No. 126-5, ELP Act § 14(2)).

[23] Docket No. 126-47, *Lewin on Trusts* 20th Ed. including First Supplement at 41-002; *see also* Docket No. 126, Phillips Decl. ¶ 65 (quoting *Lewin on Trusts* at 41-002).

[24] Docket No. 126-44, *Aquapoint LP v Xiaohu Fan* [2025] UKPC 56 at [48]; *see also* Docket No. 126, Phillips Decl. ¶ 66 (quoting *Aquapoint LP v Xiaohu Fan* [2025] UKPC 56 at [48]).

[25] Docket No. 126-42, *Abraaj General Partner VIII Limited v Abraaj ABOF IV SPV Limited*, [2025] CICA (Civ) 8 at [36]; *see also* Docket No. 126-37, *Kuwait Ports Authority v Port Link GP Limited*, [2023] (1) CILR 50 at [145] ("the general partner is also a trustee"); Docket No. 126-5, ELP Act § 16(1) ("[a]ny rights or property of every description of the exempted limited partnership . . . 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"); Docket No. 126, Phillips Decl. ¶¶ 70–71 (citing Docket No. 126-37, *Kuwait Ports Authority v Port Link GP Limited*, [2023] (1) CILR 50 at [145], section 16(1) of ELP Act, and Docket No. 126-42, *Abraaj General Partner VIII Limited v Abraaj ABOF IV SPV Limited*, [2025] CICA (Civ) 8 at [36]).

[26] Docket No. 126-41, *Kuwait Ports Authority v Williams* [2024] UKPC 32; [2025] 1 BCLC 647 at [25]; *see also* Docket No. 126, Phillips Decl. ¶ 58 (quoting *Kuwait Ports* at [25]).

the proposition that, as a matter of Cayman law, "the only sensible construction of the words in [section 16 of the ELP Act] is that the general partner of an ELP holds its assets on trust for all the limited partners."[27] The UK Privy Council, the highest appellate Court in the Cayman Islands, adopted and acknowledged this principle in its own (definitive) interpretations of Cayman law as well, recognizing just last year in its *Aquapoint* decision that "the property and rights of an ELP are held on trust 'as an asset of the exempted limited partnership in accordance with the terms of the partnership agreement', such that limited partners have a proprietary interest in the partnership assets."[28]

29. In interpreting Section 16(1) to impose a statutory trust *for the benefit of the limited partners of the ELP*, the courts recognized that the trust could not be for the benefit of the ELP itself, because the ELP lacks "personhood" and cannot, as a matter of equally undisputed Cayman law, hold assets in its own name. Cayman ELPs lack any separate legal personality. Docket No. 126-41, *Kuwait Ports Authority v Williams* [2024] UKPC 32; [2025] 1 BCLC 647 at [35] ("An ELP has no separate legal personality"); Docket No. 126-44, *Aquapoint LP v Xiaohu Fan* [2025] UKPC 56 at [33] ("An ELP does not have separate legal personality but is a form of partnership"); Docket No. 126-43, *In re ATP Life Science Ventures LP* [2025] CIGC (FSD) 106 at [32] ("an exempted limited partnership does not have any separate legal personality from the limited partners and the general partner");[29] *see also* Docket No. 126, Phillips Decl. ¶ 47 (quoting *Kuwait Ports*

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[27] Docket No. 126-37, *Kuwait Ports Authority v Port Link GP Limited* [2023] (1) CILR 50 at [51]; *see also* Docket No. 126, Phillips Decl. ¶ 58 (quoting *Kuwait Ports Authority v Port Link GP Limited* [2023] (1) CILR 50 at [51]-[57]).

[28] Docket No. 126-44, *Aquapoint LP v Xiaohu Fan* [2025] UKPC 56 at [48]; *see also* Docket No. 126, Phillips Decl. ¶ 66 n.55 (quoting *Aquapoint LP v Xiaohu Fan* [2025] UKPC 56 at [48]).

[29] More fundamentally, Justice Asif also found that a Cayman ELP cannot itself be sued or be a respondent to a just and equitable petition brought by a limited partner, and only the general partner and any intermeddling limited partners can be respondents. Even more importantly, Justice Asif's opinion is relevant because it was not simply about ELPs as a general matter under Cayman law. Rather, Justice Asif's opinion was as-applied to

Authority v Williams [2024] UKPC 32; [2025] 1 BCLC 647 at [35]; *Aquapoint LP v Xiaohu Fan* [2025] UKPC 56 at [33]; *In re ATP Life Science Ventures LP* [2025] CIGC (FSD) 106 at [32]).

30. Under Cayman law, that lack of legal personhood precludes the attribution of ownership interests to the ELP directly: "An [ELP] is not an entity with separate legal personality and ***cannot own property in its own right***."[30] To the extent there was any question under Cayman law as to whether an ELP had personhood such that it could own property in its own right, it was definitively resolved by the UK Privy Council's 2025 decision in *Aquapoint* and by *Kuwait Ports Authority v Williams*. As those decisions by the highest appellate court of the Cayman Islands make clear, the GP holds assets of the ELP for the benefit of the limited partners, as the ELP lacks the legal ability as a matter of Cayman law to hold property in its own right and not that of its constituent limited partners. *See* Docket No. 126-5, ELP Act § 16(1). Likewise, where a contract is entered into for the benefit of the ELP it "shall be entered into by or on behalf of the general partner (or any agent or delegate of the general partner) on behalf of the exempted limited partnership"—the ELP itself cannot be a party to a contract. *See* Docket No. 126-5, ELP Act § 14(2); *see also, e.g.*, Ex. M, Aethon Stock Purchase Agreement, at 27; Ex. QQ, Evercrisp Stock Purchase Agreement at 23; Ex. RR, Initial Stock Purchase Agreement, at 25; Ex. SS, Red Queen Stock Purchase Agreement, at 23 (signature pages to SPAs, reflecting agreement, "By: ATP III GP, Ltd., General Partner" for the Fund as "Purchaser").

31. ***The GP, in the related Court of Chancery Litigation***. The GP has acknowledged both that the ELP does not hold property in its own right, and that the GP holds the assets of the ELP

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the Fund specifically. The Debtors are now estopped from challenging that premise here. *See Adams v. Adams*, 738 F.3d 861, 865 (7th Cir. 2013); *Grogan v. Garner*, 498 U.S. 279, 284 n.11 (1991); *In re Lason, Inc.*, 290 B.R. 504, 506 (Bankr. D. Del. 2003).

[30] Docket No. 126-31, *Re Padma Fund LP* [2021] (2) CILR 556 at [25] (emphasis added); *see also* Docket No. 126, Phillips Decl. ¶ 52 n.44 (quoting *Re Padma Fund LP* [2021] (2) CILR 556 at [25]).

on trust for its limited partners, through the Chancery Court testimony and disclosures of its Cayman law expert witness, Michael Bloch, KC. Mr. Bloch admitted that "the consequence of the ELP not having a separate legal personality is that its general partner holds its rights and property, including choses in action, ***on trust for each of the partners***." Ex. Y, Opening Report of Michael Bloch, KC, ¶ 25 (emphasis added). Mr. Bloch cited, quoted and endorsed the *Kuwait Ports Authority v Williams* analysis that "the general partner of an ELP holds the ELP's assets on trust for all the limited partners." *Id.* ¶ 31 (quoting *Kuwait Ports Authority v Williams* at [35]). And, speaking as the GP's expert witness on Cayman law and testifying under oath at his deposition, he acknowledged that he understood the *Kuwait Ports* court's conclusion that "the assets of an ELP are held by the general partner on a statutory trust for the limited partners" to refer to the status of an ELP under Section 16 of the ELP Act. Ex. Z, Bloch Dep. Tr., Sept. 2, 2025, at 107:24-110:14. The GP relied on Mr. Bloch and submitted his expert testimony to the Court of Chancery, and cannot disavow it now. This has long been the GP's internal position as well: in 2021, GP counsel Covington advised that "since ATP IV is an exempt limited partnership registered in the Cayman Islands, it does not have its own legal personality," and the GP's general counsel, Daniel Finkelman confirmed "I agree with your conclusion." Ex. AA, May 25, 2023 Email Exchange between W. Engels and Covington and Burling LLP, at 7, 8.[31] Two years later, in 2023, the GC received still further confirmation when Covington noted that a prior error with respect to a people with significant control ("PSC") analysis "may be based on an erroneous belief that ATP Life Science Ventures, L.P. had legal personality (as is the case with a US limited partnership, but not an English limited partnership)," and cited the 2021 revision of the ELP Act

[31] These emails are from October 4, 2021; Finkelman revisited and continued the email exchange in 2023. *Id.* at 6.

to confirm to the Finkelman that "ATP Life Science Ventures, L.P. should not have legal personality." *Id.* at *3*–4, which is of course the Cayman legal premise behind the ELP's inability to have direct ownership, as discussed above, *see supra* ¶¶ 27–30.

32. ***Justice Asif, of the Grand Court of the Cayman Islands, and the GP's counsel, in the related Cayman Litigation***. The very Cayman Court that has been adjudicating the on-going litigation between the LPs and the GP in the Cayman Islands has looked at this very Cayman Fund, and observed—utterly unsurprisingly and wholly consistent with dispositive Cayman law—that as an ELP organized under the laws of the Cayman Islands, the GP "acts as a trustee on behalf of the ELPs." Ex. BB, Cayman Hr'g Tr., 31 Oct. 2025, at 04:22:12. The GP's own counsel observed that he "wouldn't quibble with any of that" and acknowledged that "[o]ne of the key things about the general partner is that its role includes holding the assets for the partnership legally, on behalf of the limited partnership as a whole." *Id.* at 4:19:28, 4:22:35. Here, too, the GP's own counsel acknowledged that same premise and obstacle to ownership, that "limited partnerships have no separate legal personality." *Id.* at 4:16:39.

33. ***The Debtors' Silence in Support of their Second Funding Motion.*** Against the overwhelming weight of Cayman law, the Debtors offer nothing to support their claims, in the Second Funding Motion or anywhere else, that assets held by the GP for the benefit of the limited partners are somehow property of the estate and available for their use in these cases. They offer no Cayman law expert (their own expert shared the LPs' view); no testimony (their own general counsel agrees with the LPs and the Cayman experts); and no contrary caselaw (there is none on point). As movants, they have the burden of proof when asking this Court to exercise its *in rem* jurisdiction and statutory authority over the subject property. They cannot satisfy their burden.

34. In sum, under the LPA and the ELP Act as definitively interpreted by Cayman Courts, including the Cayman Court in this very dispute, the Fund is a creature of Cayman law, and cannot have more rights in property than Cayman law permits; when it acts as "purchaser" to acquire securities (as through the SPAs) it does so acting via the GP as only the GP is capable of entering into contracts on behalf of the Fund. Further, when capital contributions are made in cash (as with the $97 million payment), those payments are held on trust by the GP and are to be deployed in accordance with the terms of the LPA. Neither the Fund nor the GP are the "owner" of that property.

B. Bankruptcy Law

35. Applicable bankruptcy law is just as straightforward and dispositive when it comes to assessing what these Cayman law limits on property interests of the Fund and the GP mean for their estates. While no other court has had to confront this exact question before—because no other GP has filed for chapter 11 for a multi-billion dollar solvent and valuable fund with no creditors (and, in fact, no ability to take on debt without LP consent), over the vehement objection of its limited partners, and then tried to use that solvent fund's assets for purposes that the LPA does not permit and the LPs do not support—the Bankruptcy Code and applicable bankruptcy law are clear.

36. Two provisions of the Bankruptcy Code apply and exclude all interests in property attributable to the Fund from any of the Debtors' bankruptcy estates. This is because (i) the Fund is unable to hold any interests in property as a matter of Cayman law, and (ii) the ELP is a trust under applicable law, and the GP serves as trustee, holding bare legal title to *all* interests in property attributable to the Fund on trust, with the limited partners holding the corresponding "proprietary" or beneficial interests. Because the Fund did not and could not hold property pre-petition as a matter of Cayman law, under section 541(a) and controlling case law, ***the bankruptcy***

estate of the Fund holds no property. The Fund cannot and does not hold more in bankruptcy than it did before. And because the GP merely held legal title to Fund Assets on trust for the benefit of the Fund's limited partners, under section 541(d) and controlling case law, those assets do not constitute property of the GP's estate either.

37. Again, the Debtors' disregard for the legal framework of the Fund-Level Debtors prior to the petitions has left their chapter 11 cases in utter disarray. The Debtors knew—from the Cayman Court, their own counsel, their own expert, their outside counsel, and their general counsel—that the Fund does not hold any assets of its own and that the GP holds assets solely on trust for the benefit of the limited partners. When they filed these chapter 11 cases, the Debtors disclosed zero assets for the GP, but asserted for the Fund an interest that it does not and cannot hold. *See* Docket No. 239, *Schedules of Assets and Liabilities for ATP Life Science Ventures, L.P. Case No. 25-12178*, at 14; Docket No. 241, *Schedules of Assets and Liabilities for ATP III GP, Ltd. Case No. 25-12179*, at 14. When the LPs' counsel stated at the First Day Hearing that there is no property of the estate as to the Fund-Level Debtors because "the assets of the ELP are held by the general partner on trust for each of the partners and do not form part of the general partner[']s assets,"[32] this is what they meant: as a matter of Cayman law, the assets that Debtors seek to bring before this Court for reallocation to the Debtor Portfolio Companies, or sale to some hypothetical new LPs, are not theirs to dispose of and are not properly before this Court. That is true of both the Fund-Level Debtors, the Fund and the GP.

38. ***As to the Fund***, the assets are excluded from the bankruptcy estate and this Court's jurisdiction by the basic operation of section 541(a), which provides that a debtor's bankruptcy

[32] Ex. CC, First Day Hr'g Tr., Dec. 17, 2025, at 57:23–25.

estate is limited to the interests held by the debtor prepetition and is not expanded by virtue of the filing. *See* 11 U.S.C. § 541(a).

39. The Debtors skipped over these simple threshold steps, but the Court must consider them in every case and cannot exercise jurisdiction over property as an "asset of the estate" if it never was held by the prepetition debtor. The "filing of a petition for bankruptcy protection under Chapter 11 of the Code creates an estate" by operation of law, *In re O'Brien Env't Energy, Inc.*, 181 F.3d 527, 532 (3d Cir. 1999). Section 541(a) of the Bankruptcy Code provides that the estate includes "all legal or equitable interests of the debtor in property as of the commencement of the case," subject to certain exceptions. 11 U.S.C. § 541(a)(1). Section 541(a) is broad but not unlimited: it includes only the interests in property held by the debtor prepetition and does not expand those interests to create a bankruptcy estate that is broader or more encompassing that the debtors' prepetition interest. *See In re Majestic Star Casino, LLC*, 716 F.3d 736, 759 (3d Cir. 2013). It is a "general bankruptcy rule" that "[t]he estate cannot possess anything more than the debtor itself did outside bankruptcy." *Mission Prod. Holdings, Inc. v. Tempnology, LLC*, 587 U.S. 370, 381 (2019) (citing 11 U.S.C. § 541(a)(1)). "Whatever limitations on the debtor's property apply outside of bankruptcy[,] apply inside of bankruptcy as well. A debtor's property does not shrink by happenstance of bankruptcy, *but it does not expand, either*." *Id.* at 381–82 (emphasis added) (citation modified).[33] The same limitations apply to a bankruptcy court's *in rem* jurisdiction over property. Under 28 U.S.C. § 1334(e), the Court's *in rem* jurisdiction extends only to "all of the property, wherever located, of the debtor as of the commencement of the case, and of property of the estate."

[33] The U.S. Supreme Court has characterized the legislative history *of section 541(a)(1)* as indicating that "Congress intended to exclude from the estate property of others in which the debtor had some minor interest such as a lien or bare legal title." *United States v. Whiting Pools, Inc.*, 462 U.S. 198, 204 n.8 (1983).

40. Bankruptcy law is just as clear that courts should look to applicable non-bankruptcy law to determine whether the debtor has a property right such that it may enter the estate. That rule is well settled, under U.S. Supreme Court precedent recognizing that, "Congress has generally left the determination of property rights in the assets of a bankrupt's estate to state law. …Unless some federal interest requires a different result, there is no reason why such interests should be analyzed differently simply because an interested party is involved in a bankruptcy proceeding." *Butner v. United States*, 440 U.S. 48, 54–55 (1979); *see also Travelers Cas. & Sure. Co. of Am. v. Pac. Gas & Elec. Co.*, 549 U.S. 443, 450–51 (2007); *In re Nejberger*, 934 F.2d 1300, 1302 (3d Cir. 1991) ("Although section 541 defines property of the estate, we must look to state law to determine if a property right exists and to stake out its dimensions."); *In re ComedyMX, LLC*, 647 B.R. 457, 461 (Bankr. D. Del. 2022) ("Property owned by a debtor prepetition comes into the bankruptcy estate subject to whatever restrictions or limitations exist under non-bankruptcy law."). Non-bankruptcy law can, of course, include non-U.S. law, and here, there is no dispute that Cayman law determines ownership of the Fund Assets.[34]

41. Because under Cayman law the Fund itself did not, and could not, own any assets prior to filing its bankruptcy petition, *see supra* ¶¶ 24–34, it has no assets to include in a bankruptcy estate. The chapter 11 filing did not transform the Fund from a Cayman ELP into something else, nor did it suddenly confer more rights to own and hold property for its own interest than the Fund

[34] For the avoidance of doubt, applicable non-bankruptcy law may include foreign law. "In the context of § 541, there is no reason to exclude foreign law." Memo. of Decision and Order, *In re ProBulk Inc.*, Case No. 09-14014-ALG (Bankr. S.D.N.Y. July 7, 2003). *In re Probulk Inc*., 407 B.R. 56, 61 n.4 (Bankr. S.D.N.Y. 2009). *Despins v. Guo*, Adv. P. No. 23-05008 (JAM) (Bankr. D. Conn. Apr. 3, 2024), ECF No. 126, Memo. of Decision and Order, at 30–33 (applying English common law and referring to English law treatise to grant declaratory judgment that interests in a British Virgin Islands entity were beneficially owned by the estate), *aff'd*, *Guo v. Despins*, 2025 WL 252855 (D. Conn. Jan. 21, 2025); *Patterson v. Shumate*, 112 S.Ct. 2242, 2246 (1992) ("Nothing in § 541 suggests that the phrase "applicable nonbankruptcy law" refers, as petitioner contends, exclusively to *state* law. The text contains no limitation on 'applicable nonbankruptcy law' relating to the source of the law.").

had before. Bankruptcy can be transformative, but it cannot erase the fundamental terms of a Cayman ELP, under statute, contract, or caselaw—and those terms clearly preclude attributing any ownership interest to the Cayman ELP Fund itself.

42. The GP's reliance on paragraph 18(b) of the LPA to argue that the GP has a proprietary interest in the Fund Assets is misplaced. Paragraph 18(b) grants the GP a power of attorney to act for each of the limited partners in executing certain ministerial acts "in accordance with the terms of this [LPA] as then in effect"—for example, making amendments to the LPA that only require the Rigmora LPs' consent and not the consent of the individual carry-holders. Ex. B, LPA ¶ 18(b). Subparagraph (ii)(A) adds that "[t]o the fullest extent permitted by law," this power and the power granted by paragraph 5(c) 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 . . . of the Partner." (emphasis added). This language comes from section 4(1) of the Cayman Islands Powers of Attorney Law (1996 Revision), which provides that a power of attorney can be made irrevocable if it secures "a proprietary interest of the donee of the power" or "the performance of an obligation owed to the donee." Ex. DD, Cayman Islands Powers of Attorney Law (1996 Revision) § 4(1). The GP's argument appears to be that because this formulaic language references "proprietary interest," the GP must have some proprietary interest. But the GP never says what that supposed "proprietary interest" actually is, and there is none.

43. The starting point for evaluating any interest in the Fund Assets is, again, section 16(1) of the Cayman Islands Exempted Limited Partnerships Act (2025 Revision):

> **Any rights of property of every description** of the exempted limited partnership, including . . . any right to make capital calls and

> receive the proceeds thereof . . . 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.

Docket No. 126-5, ELP Act, § 16(1). Nothing in paragraph 18(b)(ii)(A) purports to depart from this principle that the GP holds the Fund Assets on trust. Nor can it, because the requirement that the GP holds partnership assets on trust is a statutory feature of ELPs that is not subject to the parties' agreement. It follows that the GP's "proprietary interest" (if any) secured by the power of attorney in LPA paragraph 18(b) is held solely in its capacity as a trustee on behalf of the Fund's limited partners, and does not represent an equitable interest in Fund Assets in its own right.

44. In fact, the use of the term "and/or" in paragraph 18(b)(ii)(A) suggests that the power of attorney granted in paragraph 18(b) may not secure any "proprietary interest" at all, but only "the performance of obligations owed to the general partner." *See* Ex. B, LPA ¶ 18(b). But assuming that "proprietary interest" in paragraph 18(b)(ii)(A) refers to anything at all, it could refer to the GP's right under LPA paragraph 5(c) to take possession of and sell distributions owed to a "Defaulting Partner" on the Defaulting Partner's behalf. *See id.* ¶ 5(c). That power is irrelevant here, because the LPs are not Defaulting Partners as defined in paragraph 5(c), as they have not been declared as such following an uncured default in paying a capital contribution. And in any event, paragraph 5(c) makes clear that the GP must "remit the net proceeds of [any] such sale to the Partnership" to be applied for partnership purposes, not for the GP's own interests. *Id.* This again confirms that any "proprietary interest" of the GP in the Fund is the bare legal title held by a trustee, not any equitable interest.

45. Debtors' legal support for their claim to have an interest in the assets is nonexistent. They point to *In re Leff*, 88 B.R. 105, 108 (Bankr. N.D. Tex. 1988), to argue that "when a debtor has more than a minimal equitable interest in the property in question, the property in its entirety

is property of the debtor's estate," hoping to find an equitable interest of the Fund or GP that might support such a conclusion here. *See* Docket No. 228, Second Funding Motion ¶ 47. There is no such interest. But, more importantly, on appeal, the district court ***expressly disagreed*** with the portion of the bankruptcy court's decision on which the Debtors rely, and the district court's decision was, in turn, affirmed by the Fifth Circuit. *See Stewart v. Olsen*, 878 F.2d 1432 (Table) (5th Cir. 1989) (affirming opinion from *Stewart v. Olson*, 93 B.R. 91 (N.D. Tex. 1988), which expressly held that the *Leff* court "erred when it extended the reach of § 541(a)(1)"). One overruled case is not a basis for Debtors to sweep equity interests worth billions of dollars, in over a dozen companies, held for the benefit of LPs, into the jurisdiction of this court. These assets did not belong to the Fund before the filing, and they are not in the estate now.

46. ***As to the GP,*** the fact that the GP holds the Fund Assets on trust for the benefit of the LPs does not make those assets part of the GP's estate either. Here, section 541(d) governs—and yet again, the law is crystal clear. 11 U.S.C. § 541(d).

47. A prepetition debtor's interest in property is excluded from the estate if it "meets one of the narrow statutory exceptions" of the Bankruptcy Code. *In re Continental Airlines, Inc.*, 134 B.R. 536, 541 (Bankr. D. Del. 1991). Section 541(d) is the exception that applies here, and it "stands for the unremarkable proposition that property rights the debtor does not have do not become part of the bankruptcy estate." *In re ABC Learning Centres Ltd.*, 728 F.3d 301, 313 (3d Cir. 2013) (citing with approval *Continental Airlines*, 134 B.R. at 541). Section 541(d) provides that:

> Property in which the debtor holds, as of the commencement of the case, only legal title and not an equitable interest . . . becomes property of the estate under subsection (a)(1) or (2) of this section only to the extent of the debtor's legal title to such property, but not to the extent of any equitable interest in such property that the debtor does not hold.

11 U.S.C. § 541(d). The Third Circuit has explained that the legislative history of section 541(d) "reiterates the general principle that where the debtor holds bare legal title without any equitable interest, . . . the estate acquires bare legal title without any equitable interest in the property." *ABC Learning Centres*, 728 F.3d at 313 (citation modified).[35] Like Section 541(a), Section 541(d)—as adopted and interpreted—hews to the principle that a debtor does not hold a greater interest in property in bankruptcy court than it did before it filed; the chapter 11 petition protects rights, but does not enlarge them.

48. In applying Section 541(d), over many decades, courts have recognized it as the exception that protects trust beneficiaries from having their assets, held on trust, from being swept into the estate if and when their trustees file for chapter 11. The Third Circuit put it bluntly: "assets the debtor holds in trust for a non-debtor" do not constitute estate property.[36] *See ABC Learning Centres*, 728 F.3d at 313. So has the Supreme Court: "Congress plainly excluded property of others held by the debtor in trust at the time of the filing of the petition." *Whiting Pools*, 462 U.S. at 205 n.10; *see also Begier v. I.R.S.*, 496 U.S. 53, 59 (1990) ("Because the debtor does not own an equitable interest in property he holds in trust for another, that interest is not 'property of the

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[35] *See* 124 Cong. Rec. H11096 (daily ed. Sept. 28, 1978) (bound edition at 32399) (floor statement of U.S. Congressman D. Edwards) ("To the extent that such a [legal or equitable] interest is limited in the hands of the debtor, it is equally limited in the hands of the estate…."); 124 Cong. Rec. S33999 (daily ed. Oct. 5, 1978) (floor remarks of U.S. Senator D. DeConcini) (clarifying that the mortgage-related language in section 541(d) is an example of the general principle "as applied to the secondary mortgage market"); S. REP. NO. 95-989, at 82 (1978) (Senate Judiciary Report on the Bankruptcy Reform Act of 1978) ("Situations occasionally arise where property ostensibly belonging to the debtor will actually not be property of the debtor, but will be held in trust for another."); *see also In re Sacred Heart Hosp. of Norristown*, 175 B.R. 543, 549 (Bankr. E.D. Pa. 1994) (stating in reference to the mortgage-related language in section 541(d): "the section applies equally well to a situation where a debtor holds property in trust for another generally.")

[36] Cayman insolvency law similarly views assets held on trust for a third party as excluded from property of the insolvency estate, whether the trust is "express, implied, constructive or resulting or is imposed by statute." *See* Docket No. 126-46, *Goode on Principles of Corporate Insolvency Law*, 5th Ed. at 6-41; *see, e.g.*, Docket No. 126-13, *In Re Lehman Brothers International (Europe) (in administration) (No 2)* [2009] EWCA Civ 1161; [2010] Bus. L.R. 489 (English court did not sanction reorganization insofar as it sought to distribute property held on trust); *see also* Docket No. 126, Phillips Decl. ¶ 73 (citing *Goode* at 6-41 and *Lehman Brothers International*).

estate'"); *cf. In re Dameron*, 155 F.3d 718, 722 (4th Cir. 1998) ("[E]quitable interest[s] [are] subject to exclusion from the bankruptcy estate under § 541(d)[.]"). Moreover, the courts apply section 541(d) to express and constructive trusts, recognizing that "Congress clearly intended the exclusion created by section 541(d) to include not only funds held in express trust, but also funds held in constructive trust." *See, e.g.*, *In re Columbia Gas Sys. Inc.*, 997 F.2d 1039, 1059 (3d Cir. 1993); *see also In re City of Farrell v. Sharon Steel Corp.*, 41 F.3d 92, 95 (3d Cir. 1994) (explaining that it is a "well-settled principle that debtors do not own an equitable interest in property they hold in trust for another, and that therefore funds held in trust are not property of the estate" (citation modified)); *In re SemCrude, L.P.*, 418 B.R. 98, 106 (Bankr. D. Del. 2009) ("[F]unds in the [debtors'] possession held for third parties, such as funds held in resulting trust . . . are not part of the bankruptcy estates."); *accord In re Flanagan*, 503 F.3d 171, 180 (2d Cir. 2006) ("While the bankrupt estate is defined very broadly under § 541(a)(1) of the Bankruptcy Code to include all legal or equitable interests of the debtor, any property that the debtor holds in constructive trust for another is excluded from the estate pursuant to § 541(d)(1) . . . ."); *Dameron*, 155 F.3d at 720–21 ("When a debtor does not own an equitable interest in property he holds in trust for another, that interest is not property of the estate for purposes of the Bankruptcy Code." (citation modified)).

49. As with determining underlying property rights for purposes of section 541(a), courts deciding whether a trust relationship exists for purposes of section 541(d) look to applicable non-bankruptcy law to determine whether the trust relationship and its legal source exist. *See Sharon Steel*, 41 F.3d at 95. To determine how section 541(d) applies to interests in property, courts routinely follow a well-trod analytical path: apply the relevant facts and circumstances to applicable non-bankruptcy law, including a review of statutes, case law, and agreements. *See, e.g.*,

Universal Bonding Ins. Co. v. Gittens & Sprinkle Enters., Inc., 960 F.2d 366, 371 (3d Cir. 1992) (analyzing New Jersey statute creating constructive trusts in favor of laborers and materialmen in the context of government agencies making payments to a general contractor to conclude that a constructive trust was created under New Jersey law); *see also In re Dameron*, 155 F.3d at 722–23 (considering the parties' intent and the plain language of an agreement in the context of principles from case law and treatise to conclude that an express trust was created under Virginia law); *In re Catholic Bishop of Spokane*, 329 B.R. 304, 325 (Bankr. E.D. Wash. 2005) (reviewing organizational documents and attendant facts in the context of Washington trust-creation statute and its legislative history to conclude that an express trust was created), *aff'd in part*, *Committee of Tort Litigants v. Catholic Diocese of Spokane*, No. CV-05-0274-JLQ, 2006 WL 211792 (E.D. Wash. Jan. 24, 2006), *rev'd in part on other grounds*, 364 B.R. 81 (E.D. Wash. 2006); *see Despins v. Guo*, Adv. P. No. 23-05008 (JAM) (Bankr. D. Conn. Apr. 3, 2024), ECF No. 126, Memo. of Decision and Order (granting declaratory judgment that beneficial interests constituted estate property upon analysis and application of British Virgin Islands law and English common law).

50. That same path applies here, and points in just one direction: under Cayman law, the ELP is a statutory trust, and its assets—held by the GP on trust for the benefit of the limited partners of the ELP—are outside the estate and beyond this court's jurisdiction. *See* Docket No. 126, Phillips Decl. ¶ 24. As demonstrated above and throughout these cases, the Fund is a Cayman Islands ELP. The GP, itself a Cayman Islands entity, is the Fund's general partner. The LPs are the Fund's primary limited partners, having contributed about 98% of its over $2.4 billion in capital contributions. Under Cayman law, which constituted and governs the Fund, the Fund lacks legal personality; rather, the GP holds the property of the Fund on statutory trust for the benefit of the Fund's limited partners. The GP's principal role is to manage the LPs' investments as their

fiduciary. It holds no assets for itself or the Fund; instead, it holds them for the LPs, on trust, and cannot sweep them into this court or its own estate. *See generally* ¶¶ 6, 9, 26-30 *supra*; Docket No. 126, Phillips Decl. ¶¶ 24(b), 26–27, 57–81; Docket No. 205, Amended Motion to Dismiss, ¶ 82.

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51. No other bankruptcy court has been asked to exercise jurisdiction over billions of dollars of assets held through a solvent and valuable Cayman ELP structure, by the GP for the benefit of the LPs, over their objection. But the bankruptcy principles are familiar and readily applicable to what are uncontested principles of Cayman law. The Fund cannot and does not hold assets as a matter of Cayman law; under section 541(a), it has no prepetition assets to include in an estate. The GP holds assets in the Fund's name on trust for the benefit of the LPs as a matter of Cayman law; under section 541(d), assets of a trust are an exception to the creation of the estate and excluded therefrom.

52. That this analysis leaves two debtors with no assets and no viable bankruptcy purpose is admittedly unusual—or it would be, if the Fund-Level Debtors' bankruptcy cases were genuine good-faith filings. The analytical result is completely consistent, however, with this particular situation, where the Fund-Level Debtors filed for chapter 11 to avoid the Cayman winding-up proceeding and to continue their two-party litigation against the LPs in another forum, not because of any real restructuring need.

53. For purposes of the Second Funding Motion, what this means is that the Court lacks *in rem* jurisdiction over the $74 million in Fund Assets that the Debtors seek permission to use, and lacks statutory authority to grant the relief sought under section 363(b), the statute relied upon in the Second Funding Motion. The Court cannot grant the relief the Debtors seek, because they

are attempting to use property that is not theirs and that is not before this Court. Under section 363(b), the Debtors "may use, sell, or lease, other than in the ordinary course of business, *property of the estate* . . . ." 11 U.S.C. § 363(b) (emphasis added). The Court simply cannot authorize the use of the Fund Assets, in any form.

II. Assuming *Arguendo* That Fund Assets Constitute Estate Property, Those Interests Remain Subject To, and Do Not Shed, the Terms of the LPA.

54. The Debtors' proposed use of funds is not consistent with the LPA and would not be permissible even if this Court were to find, in contravention of Cayman law and section 541, that the $74 million the Debtors seek to use is property of an estate subject to this Court's jurisdiction.

55. It is beyond dispute at this point that the LPA requires called capital to be used in accordance with approved budgets and for the purpose for which it was called. Ex. B, LPA, ¶ 5(a)(ii); Ex. D, LPA Amendment No. 3, at 2 (amending LPA ¶ 5(a)(ii)); Docket No. 18, First Day Decl. of Dr. Seth Harrison ¶ 6 n.2 (noting "Subsection 5(a)(ii)(E) of the LPA 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.' The Rigmora LPs . . . thus have the right to approve budgets for Projects . . . before capital can be called."). That was the premise behind the capital calls, as the GP argued to the Chancery Court (and is estopped from denying). That is, the GP secured payment of the $97 million based in part on Dr. Harrison's representation under oath that the "size of the Capital Calls" was based on each respective Portfolio Company's "research plans," that the calls "excluded [Dr. Harrison's] own Management Fee," and that the purpose of the calls was to deploy the called capital consistent with the LPA at the Portfolio Company for which the capital was called. Ex. E, Chancery Court Post-Trial Op., Dec. 5, 2025, at 58, 60.

56. Now that the capital calls have been paid, and the dispute has moved from Chancery to Bankruptcy Court, the GP has switched direction, and seeks to use the capital for purposes other than those for which it was called and in a manner inconsistent with his representations to the Chancery Court and the LPA. *See* Ex. EE, Second Day Hr'g Tr., at 149:20–150:1 (Patty Tomasco: "[T]hese debtors need to be able to use funds notwithstanding the fact that they're outside of the budget."). As detailed below, over $41 million of the requested $61 million is to be used in a manner inconsistent with the capital calls, including to pay Dr. Harrison amounts he is not even owed.

57. The capital calls that the GP issued on May 30, 2025 (the "**May 30 Capital Calls**"), for which the GP sought specific enforcement and received $97 million in cash in December, were: (i) $7.1 million for Apertor; (ii) $7 million for Evercrisp; (iii) $7 million for Initial; (iv) $6.3M for Marlinspike; (v) $6.4 million for Red Queen; (vi) $5 million for Aethon; (vii) $5,976,168 for Ascidian; (viii) $9 million for Deep Apple; (ix) $29,840,999 for Marengo; and (x) $13,343,759 for ATLS Fees and expenses.[37]

58. Much of what the Second Funding Motion seeks is outside the scope of the May 30 Capital Calls. The May 30 Capital Calls *expressly excluded* payment of the Management Fee and any capital for Replicate.[38] *See* Ex. E, Chancery Court Post-Trial Op., Dec. 5, 2025, at 64–65 (holding that the LPs did not need to pay the capital call for Replicate because it was out of budget);

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[37] *See* Ex. E, Chancery Court Post Trial Op., Dec. 5, 2025 at 36 (as adjusted for LPs' investment); Ex. FF, Chancery Court Final Judgment, Dec. 11, 2025, at 2; Ex. GG, May 30 Capital Call for Expenses. ATP also called $4 million for Replicate but the Chancery Court denied that claim as Replicate is out of budget, despite Debtors' claims to the contrary.

[38] As noted above, these are the amounts that the Debtors seek to expend in addition to the amounts that the LPs consented to at the Second Day Hearing. But because any funding of these Portfolio Companies cannot be done consistent with the LPA if drawn from the $97 million without the LPs' consent, the LPs again maintain that the already approved expenditures should be drawn from the cash on hand, not from the $97 million set aside in a segregated account, as the LPs' consented to at the Second Day Hearing.

id. at 60 (noting that the Management Fee was excluded from the May 30 Capital Calls). The May 30 Capital Calls did not seek funding for Nine Square, Nereid, and Aulos because those Portfolio Companies have exhausted their approved budgets and thus cannot be funded in accordance with the LPA. *See* Ex. HH, Q2 2025 Quarterly Digest, at 4 (showing $0 in the Remaining Budget Approved column). And, obviously, they did not include $22.5 million in Chapter 11 Expenses. *See* Docket No. 228, Second Funding Motion ¶ 27.

59. The Second Funding Motion disregards this history, and the LPA, entirely. It appears to be the GP's veiled attempt to achieve through bankruptcy the result it failed to achieve in the Chancery Court: unfettered discretion over how to spend Fund money without regard to the LPs and their rights under the LPA. Dr. Harrison called roughly $30 million for Marengo on May 30. This proposal allots $0 to Marengo. Over $41 million of the requested amount is inconsistent with the uses for which the capital was called and the LPA. Only $10.4 million of the approximately $27.6 million earmarked for the Portfolio Companies is consistent with the May 30 Capital Calls and LPA. None of the $1.4 million on the Management Fee; $22.5 million in Chapter 11 Expenses; $3,006,782 for Debtor Nereid, $2,231,000 for Debtor Nine Square, $4,501,974 for non-Debtor Aulos; or $7,479,000 for non-Debtor Replicate is consistent with the May 30 Capital Calls or the LPA.

60. Debtors attempt to justify their complete disregard for the LPA and abandonment of the GP's representations to, and position before, the Chancery Court by relying on the erroneous assertion that section 541(c)(1) of the Bankruptcy Code "abrogate[s]" any "restriction on the use of property of the estate," Ex. EE, Second Day Hr'g Tr., Jan. 20, 2026, at 149:20–150:1, and allows them to use funds regardless of the restrictions in the LPA.[39] This Court was skeptical of that

[39] To the extent the Debtors seek to rely on section 363(b)(1) of the Bankruptcy Code to end-run foundational bankruptcy law regarding the interests comprising the estate, the Third Circuit has observed that section

argument, *id.* at 150:2–6, and its skepticism was warranted. Because these expenditures are not permitted by the plain terms of the LPA, they are likewise not permitted under the plain terms of the Bankruptcy Code and relevant precedent in this Circuit.

61. Section 541(c)(1) is not a free pass for debtors to disregard the limits of their contractual rights. It is intended to facilitate the transfer of property to the estate upon a bankruptcy filing, by avoiding alienation restrictions and forfeitures that would be triggered by insolvency and could prevent interests from becoming estate property.[40] Courts have uniformly found that "[t]he plain meaning of [the] language is that section 541(c)(1) is intended to eliminate barriers to the transfer of property *to* the estate, and nothing more." *In re Polycorp Assocs., Inc.*, 47 B.R. 671, 672 (Bankr. N.D. Cal. 1985) (emphasis in original); *see also In re Sanders*, 969 F.2d 591, 593 (7th Cir. 1992) ("Filing a bankruptcy petition does not expand or change a debtor's interest in an asset; it merely changes the party who holds that interest."); *In re Dean*, 174 B.R. 787, 789–90 (Bankr.

363(b)(1) is a "general enabling provision[] that do[es] not expand or change a debtor's interest in property merely because it files a bankruptcy petition." *Integrated Sols., Inc. v. Serv. Support Specialties, Inc.*, 124 F.3d 487, 494 (3d Cir. 1997); *see also In re FCX*, 853 F.2d 1149, 1155 (4th Cir. 1988) (stating that section 363(b)(1) does not "empower" in the sense that "new rights or powers for dealing with the property of the estate are created" and that it "evinces no intent to enlarge the trustee's rights to take such actions beyond the debtor's pre-bankruptcy rights."); *In re Schauer*, 835 F.2d 1222, 1225 (8th Cir. 1987) (stating that section 363(b)(1) "simply" provides the "trustee authority to sell or dispose of property if the debtors would have had the same tight under state law" and contract law). The Debtors rely on *In re Am. Home Mortgs. Holdings*, 402 B.R. 87 (Bankr. D. Del 2009) for the proposition that the reasoning from the Third Circuit in *Integrated Sols.* is cabined to statutory restrictions. However, the Debtors overlook that, critical to the reasoning in *Am. Home* was the court's determination that the clause at issue in a loan servicing agreement "speaks not to the [debtor's] *power* to assign . . ., but rather to its *right* to assign." 402 B.R. at 102. On its face, the terms of a service contract are not materially analogous to the facts at hand. Here, there is a corporate organizational agreement, the terms of which are limited to, and consistent with, powers prescribed by clear Cayman statute and case law (and the aggregate of such authority provides that the GP is a trustee in connection with Fund Assets with *limited powers*, and rights to manage the Fund Assets as a fiduciary to the limited partners, which are principally the LPs, and subject to the rights of the LPs).

[40] Section 541(c)(1) provides that: "an interest of the debtor in property becomes property of the estate . . . notwithstanding any provision in an agreement, transfer instrument, or applicable nonbankruptcy law—(A) that restricts or conditions transfer of such interest by the debtor; or (B) that is conditioned on the insolvency or financial condition of the debtor . . . and that effects or gives an option to effect a forfeiture, modification, or termination of the debtor's interest in property. 11 U.S.C. § 541(c)(1).

E.D. Ark. 1994) ("It does not follow, however, that restrictions on transfers are avoided merely by inclusion as property of the estate."); *In re Todd*, 118 B.R. 432, 435–36 (Bankr. D.S.C. 1989) (the intent of section 541(c)(1) was "not to void any restrictions on the transfer of the property from the trustee, as successor to the debtor, to third parties."). Congress's vision for section 541(c) is the same: it "invalidates restrictions on the transfer of property of the debtor, in order that all of the interests of the debtor in property will become property of the estate." *See* H.R. REP. NO. 95-595, at 369 (1977) (House Judiciary Report on Bankruptcy Law Revision).

62. Just as with section 541(a), and section 541(d), Section 541(c)(1) provides for continuity, not expansion, of rights and interests once the petition is filed. It "does not operate to define the bundle of rights that go with property" and it does not allow a trustee to "redefine the nature and extent of the [d]ebtor's property interest . . . for that interest is defined by state law." *In re Warner*, 480 B.R. 641, 656 (Bankr. N.D. W.Va. 2012). Instead, it, too, recognizes that "the estate takes its interest subject to the conditions under which the [prepetition] debtor held the interest." *In re South Side House, LLC*, 474 B.R. 391, 402 (Bankr. E.D.N.Y. 2012) (collecting cases); *see also In re Warner*, 480 at 656 ("Expanding the Trustee's rights to allow him to choose which provisions of the Operating Agreement control rings a dissonant chord with § 541(c)(1).")

63. Because Debtors are seeking to avoid provisions of the LPA, not transfer and forfeiture restrictions, section 541(c)(1) is not relevant and does not provide a basis for Debtors to use funds in ways prohibited by the LPA and Cayman law.

III. Even Assuming *Arguendo* that the Proposed Funding is Consistent with the LPA, the Proposed Budget Reflects an Improper Exercise of Business Judgment as it Relates to the Fund.

64. Even if the proposed funding at the Portfolio Companies and payment of the Management Fee were consistent with the LPA, the Debtors still must satisfy the strictures of section 363 of the Bankruptcy Code. The Debtors have not satisfied that burden and have gone to

great lengths to insulate their proposed budget from meaningful review, hoping that this Court will accept their untested say-so.[41] But the word of a conflicted GP at war with his LPs and the word of a conflicted Chief Restructuring Officer who relies on that GP is not enough to deprive a Fund of tens of millions of dollars, especially where there is no analysis that supports concluding that the value of the Fund would increase if its cash on hand were spent, and the proposed spend is on companies that already spent millions of dollars and nearly half a decade and are still stuck in the preclinical stage.

65. The following discussion focuses on the reasons that the Debtors have failed to substantiate that the proposed research and development spend and payment of the Management Fee are in the Fund's best interest. But the focus on these two issues is not a concession that other aspects of the proposed budget, such as increasing headcount at companies that have been in stasis for some time, are in the Fund's interest.

A. Proposed Research and Development Spend at the Portfolio Companies

66. The Debtors concede that their use of Fund Assets to fund research and development at the Portfolio Companies is outside the ordinary course of business. *See* Docket No. 228, Second Funding Motion ¶¶ 38–40. Accordingly, the Debtors bear the burden of showing that the proposed funding is an appropriate exercise of their sound business judgment on behalf of all Debtors, *including* the Fund. 11 U.S.C. § 363(b)(1); *In re Montgomery Ward Holding Corp.*, 242 B.R. 147, 153 (D. Del. 1999); *accord In re Lionel Corp.*, 722 F.2d 1063, 1071 (2d Cir. 1983). The Debtors have not made such a showing. The Debtors' principal argument, as before, appears to be that the

[41] The one exception is Aulos. Given that Aulos is a promising investment in ongoing clinical stage trials, the LPs agree that further funding for Aulos is an appropriate exercise of business judgment including because of the ethical obligations owed to patients enrolled in the clinical trial. However, given that Aulos cannot be funded consistent with the LPA since Aulos has exhausted its budget, the LPs maintain that the Debtors must work with the LPs to reach a consensual resolution as to the appropriate funding for Aulos. Despite the filing of this Objection, the LPs remain open to having such a constructive conversation with the Debtors' counsel.

proposed spend on external research and development is in the interest of all the Debtors' estates because any spending by the Fund must necessarily rebound dollar for dollar to the Fund. To that obviously wrong argument, the Debtors now also argue that each dollar the Fund spends at Apertor, Evercrisp, Initial, Marlinspike, Red Queen, Aethon, and Replicate will benefit the Fund because it will discharge the Fund's obligations to those companies under their respective SPAs.[42] Both of these arguments fail for the reasons set forth below.

67. *First*, the argument that any dollar spent by the Fund at a Portfolio Company benefits the Fund is an argument only a conflicted advisor could make. The existence of these conflicts is the subject of separate motions and will not be repeated in full here.[43] However, only a conflicted advisor would argue that it is in the Fund's best interest to invest as *equity* tens of millions of dollars in cash on hand into not one, but several different and distinct bankrupt companies. Only a conflicted advisor would make the demonstrably false assertion that the Fund exists to spend money, not to generate a return on the Fund's investments. *Compare* Ex. EE, Second Day Hr'g Tr., at 109:19–24 ("The mission, the charter . . . of this company is to provide funding to developmental stage companies. . ."), *with* Docket No. 260-1, *Debtors' Opposition to Rigmora's Motion to Dismiss*, at 12 ("The principal purpose of the Partnership is to achieve returns on its capital by investing in pharmaceutical, life science, medical device and other medically-related

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[42] The Debtors concede that the Fund has no further financial obligations to Nine Square, Nereid, or Aulos under their respective SPAs. *See* Docket No. 228, Second Funding Motion ¶ 29.

[43] *See generally* Docket No. 226, *Limited Objection of Rigmora Biotech Investor One LP and Rigmora Biotech Investor Two LP to Debtors' Application for an Order Authorizing the Retention and Employment of Quinn Emanuel Urquhart & Sullivan, LLP as Co-Counsel for the Debtors Effective as of the Petition Date*; Docket No. 227, *Limited Objection of Rigmora Biotech Investor One LP and Rigmora Biotech Investor Two LP to Debtors' Motion for Entry of an Order (I) Approving the Retention and Employment of B. Riley Restructuring Services, LLC to Provide the Debtors with a Chief Restructuring Officer and Additional Staff Effective as of the Petition Date; (II) Designating Perry M. Mandarino as the Chief Restructuring Officer to the Debtors; and (III) Granting Related Relief*.

companies and business projects."). And, only a conflicted advisor would assert that it is in the interest of a closed-end Fund that is running up on the end of its contingent subscription to continue to invest capital in underperforming companies instead of companies that have reached the clinical stage and show more promise, even when, prior to these filings, Dr. Harrison stated that "reallocation from preclinical to clinical [companies] . . . is the right business decision for the portfolio in ANY financing context. *See* Ex. V, April 4, 2025 WhatsApp exchange between S. Harrison and A. Batarina, at 2.

68. *Second*, there is no evidence supporting the counterintuitive assertion that what is good for the distressed Portfolio Companies is necessarily good for the Fund. Each of the Debtor Portfolio Companies were founded nearly half-a-decade ago, if not earlier. Each has spent tens of millions of dollars. Not one has reached the clinical stage. Some, like Marlinspike, have spent nearly $29 million dollars over almost four years and are still searching for a potentially viable development candidate nomination. Ex. K, Opening Report of Dr. Rimm, ¶¶ 93–94. Many of these companies are, by the Debtors' own admission, nowhere.

69. On October 28, 2025, Paul Jardine of ATP emailed Paul Eisenberg also of ATP remarking: "[I]t is the strangest thing with ATP companies but I see 'strategies' around budget and cash out options and raising new money maybe but I don't see plans to exit and make money." Ex. T, Email Exchange Between P. Jardine and P. Eisenberg, ATPBK_00041491 (emphasis added). Nothing has changed in the last three and a half months. The chart describing the Debtors progress of the Second Funding Motion discusses science, some of it interesting, some of it not. *See* Docket No. 228, Second Funding Motion ¶ 22. But none of it provides information necessary to understand whether investing more money in these dated companies makes economic sense. There is no discussion of the competition these companies face. There is no discussion of the

efficacy as compared to alternatives currently in the market or far ahead of these companies but still under development. There are no substantiated, concrete estimates of how much more money or time it would take to get to a clinical stage, no estimates of how money or time it would take to get to commercialization, and no reliable estimates as to how much money could be made assuming commercialization ever occurred. Absent this information, it is impossible to conclude that it is in the Fund's interest to sink more money into external research and development at this time. The struggling Portfolio Companies surely are eager to use the Fund's money to restart external research and development, but unless there is some plan for generating a return on investment that someone looking out for the Fund has reviewed and signed off on, there is no basis to conclude that the Fund benefits from the Portfolio Companies spending more of its money.

70. *Third*, it is not just the absence of the any evidence showing that spending the Fund's money on external research and development will return value to the Fund that is concerning, the lengths to which the Debtors have gone to prevent anyone from conducting such an analysis is raises serious questions about the Debtors' good faith. Following the last funding hearing, and cognizant of this Court's admonishment that the parties work cooperatively, the LPs sought informal discovery that would answer basic questions concerning each Debtor Portfolio Company including (1) to specify the next event or development expected to positively impact the value of the company in the eyes of third-party investors, and (2) the amount of additional investment needed to reach that milestone. In response, the Debtors provided high-level sketches of how the money would be spent, but did not address the likelihood of achieving positive results, or the financial consequences associated with scientific success or failure. *See* Ex. II, Portfolio Company Descriptions, January 28, 2026. The LPs then took up the Debtors' request to retain a scientist to discuss these issues with each of the Portfolio Companies. That effort was met with a complete

refusal to provide contemporaneous documents or the requested conversation, necessitating a motion to compel. *See* Docket No. 285, *Letter to the Court by Shannon Rose Selden re: LP's Motion to Compel Discovery*. After the Debtors rebuffed the informal discovery, the LPs noticed 30(b)(6) depositions setting forth the most basic information any debtor should be able to answer. Ex. JJ, Notice of 30(b)(6) Deposition for Red Queen, Schedule A, at 2 (including as topics for examination Red Queen's financial condition and valuation, Red Queen's understanding of the uses for the requested funding, and Red Queen's involvement in the preparation of Debtors' proposed budget). That notice was met with a motion to quash. *See* Docket No. 294, *Letter to the Court by L. Katherine Good re: Debtors Requesting to Quash Subpoenas and Deposition Notices Issued by Rigmora Biotech Investor One LP and Rigmora Biotech Investor Two LP*. Interrogatories seeking the same information were met with stock and unhelpful answers. Ex. KK, February 9, 2026 Debtors' Supplemental Responses & Objections to LPs' Second Funding Motion RFPs and Interrogatories, at 2–15 (only reproducing Tables 1 and 3 from ATP's Second Funding Motion in response to the LPs' first four interrogatories and claiming an inability to answer LPs' fifth interrogatory).[44] This stonewalling is not the behavior of good faith Debtors capable of explaining to the Fund's 98% LPs why spending more Fund money would benefit the Fund.

[44] In any event, these tables provide limited information regarding the Portfolio Companies. Notably, Debtors admit Apertor will not achieve clinical proof of concept before be in position to file an IND application until at least 2027; Initial will not reach a clinical go/no-go decision on its prostate cancer project until 2028 at the earliest; Marlinspike will not reach a clinical go/no-go decision until the end of 2027; Nereid cannot make a clinical go/no go-decision until the end of this year for one of its projects nor reach development candidate status on its other programs until end of this year or the beginning of 2027; Aethon projects development candidate nominations sometime in the next two years with no timetable for an IND application or a clinical go/no-go decision; and Replicate will not generate clinical data until at best end of 2027. Furthermore, for Evercrisp, Nine Square, and Red Queen, the Debtors fail to even identify any value inflection point, let alone when such a point might be reached. Docket No. 228, *Second Funding Motion*, at Table 1.

71. *Fourth*, the documents produced in discovery—at least until Debtors unilaterally stopped producing documents—paint a startlingly different story than the one Debtors seek to tell to this Court. A few examples suffice:

- **Ex. LL, Email Exchange Between S. Harrison and D. Kroin, ATPBK_00005160**: On May 31, 2025, David Kroin of Deep Track Capital responded to an outreach for potential investment in ATP's portfolio asking: "Redqueen: published covid data are not impressive…what is next step? Why does this deserve capital in this environment?" "Replicate: why do we need another mRNA company in this environment? ARCT has self-replicating and is worthless. mRNA is RFK-enemy number 1."

- **Ex. MM, WhatsApp Exchange Between J. Yanchik and A. Bayliffe, ATPBK_00001230**: On June 4, 2025, Joseph Yanchik of ATP commented about Marengo and Dr. Harrison more generally: "my concern, that I have discussed with Seth . . . [it] doesn't even appear that we are in the running for deals . . . After $250m plus into a company, we should have a line of sight to liquidity."

- **Ex. NN, Email Exchange Between J. Yanchik and M. Ehlers, ATPBK_00035272:** On September 27, 2025, Joseph Yanchik of ATP emailed Mike Ehlers concerning Replicate noting: "It is the portfolio co refrain. Give us more money and let's wait a couple more years for data"

- **Ex. T, Email Exchange Between P. Jardine and P. Eisenberg, ATPBK_00041491**: On October 28, 2025, Paul Jardine emailed Paul Eisenberg remarking: "[I]t is the strangest thing with ATP companies but I see 'strategies' around budget and cash out options and raising new money maybe but I don't see plans to exit and make money"

72. These candid admissions from months ago helps explain why these companies could not attract any outside equity investments outside of bankruptcy. These are companies that have consistently missed milestones that were either embedded in the SPAs or reflected in the investment memoranda that the GP prepared.[45] *See* Ex. K, Opening Report of Dr. Rimm, ¶¶ 14, 65, 71–101 (showing that Aethon, Apertor, Evercrisp, Initial, Marlinspike, and Red Queen all missed significant milestones). The market recognizes that the early-stage Portfolio Companies

[45] Although the Chancery Court found that meeting these milestones were not a prerequisite to the LPs being required to meet capital calls to the Fund, the Chancery Court never addressed whether the milestones should inform the Fund's decision to further invest Fund Assets into the Portfolio Companies.

have little prospect of generating commercial value, and the Debtors offer nothing to show otherwise. *See, e.g.*, Ex. J, Chancery Trial Tr. at 203:24–205:7 (Dr. Strebulaev) (noting that "comparable early-stage biotech companies" that succeeded in raising new capital or having a successful M&A transaction generally did so 1.5 to 2.18 years from initial investment, compared to the more than two to four years in which the early-stage Portfolio Companies have failed to do so).

73. The Debtors seek to explain this lack of interest away by asserting that the Portfolio Companies have generated value for the Fund. But the valuations that they rely on are based on money *invested*, rather than on any current assets or actual prospect of success, and the Chief Restructuring Officer admits he has done no independent assessment of the value of the Portfolio Companies. Ex. EE, Second Day Hr'g Tr., at 137:6–9; Ex. OO, Dr. Rao Dep. Tr, Sept. 02, 2025, at 187:17-25 (agreeing that the valuation the GP provided is "based on the value already determined at the time of the investment."). As the below table shows, the Debtor Portfolio Companies are all worth *less* than the amount invested, with the exception of Nine Square (worth only 1% more than the amount invested) and Red Queen (approximately 12% more).

PortCo	Amount Invested Prior to Bankruptcy[46]	Value of the PortCo According to Second Funding Motion
Apertor (Debtor)	$31,591,627.43	$28,858,000
Evercrisp (Debtor)	$26,950,000	$23,370,000
Initial (Debtor)	$56,150,000	$42,145,000
Marlinspike (Debtor)	$29,262,500	$26,722,000

[46] This funding figure includes all the payment of all capital calls prior to the Chancery Court's judgment, as well as all promissory notes granted in 2025 and all investments made using proceeds from the Tendyne and Braeburn earnout and payment.

PortCo	Amount Invested Prior to Bankruptcy[46]	Value of the PortCo According to Second Funding Motion
Nereid (Debtor)	$50,411,947.6	$28,389,000
Nine Square (Debtor)	$51,150,000	$51,818,000
Red Queen (Debtor)	$27,600,000	$31,184,000
Aethon (Non-Debtor)	$19,000,000	$17,137,000
Aulos (Non-Debtor)	$60,000,000	$65,845,000
Replicate (Non-Debtor)	$60,750,000	$89,911,000

74. *Finally*, Debtors insistence that investing Fund money in Aethon, Apertor, Evercrisp, Initial, Marlinspike, Red Queen, and Replicate would benefit the Fund because it would reduce amounts owed pursuant to unspecified provisions in their Series A Stock Purchase Agreements (the "**SPAs**") is simply false.[47] It is telling that the Debtors do not cite any particular contractual obligation, or provide any textual reference to support it. There is none. As to Replicate, the Chancery Court ruled that company is *out of budget* and, accordingly, the Fund has no further obligations to fund Replicate. *See* Ex. E, Chancery Court Post-Trial Op., Dec. 5, 2025, at 64–65. For the remaining Portfolio Companies, the SPAs and the GP's own admissions in the Chancery Court make clear that the Fund does *not actually have outstanding obligations to fund* Apertor, Evercrisp, Initial, Marlinspike, Red Queen, or Aethon under the SPAs and thus any further equity investment by the Fund would be wholly discretionary.

[47] As noted earlier, the Debtors have conceded that there are no obligations to Nine Square, Nereid, or Aulos under the SPAs.

75. The SPAs for Aethon and Marlinspike make the Fund's obligation to make further equity investments contingent on the Portfolio Companies hitting certain milestones and the Board "determin[ing] that the Company has successfully achieved the . . . [defined] Milestone." Ex. M, Aethon Stock Purchase Agreement ¶¶ 1.2(b)–(e); *see also* Ex. N, Marlinspike Stock Purchase Agreement ¶¶ 1.2(b)–(f). However, both the GP and the GP's own expert admitted that Aethon and Marlinspike *never hit* the milestones under the SPAs and as a result, the Fund has no further commitments to either of these Portfolio Companies under the SPAs. *See* Ex. J, Chancery Trial Tr. at 195:8–15; Ex. HH, Q2 2025 Quarterly Digest, at 9 (indicating Development Candidate has not yet been nominated for Aethon, placing it behind its fifth tranche milestone), *id.* at 13 (indicating Development Candidate has not yet been selected for Marlinspike, placing it behind its fourth tranche milestone). The SPAs for Apertor, Initial, Evercrisp, and Red Queen, on the other hand, make further funding contingent on milestones, but left the open milestones open to be agreed upon in the future.[48] No one contends that those milestones were ever agreed—or met. The Fund has no obligation to purchase shares in those companies because the condition precedent of "achievement of . . . milestones" cannot be satisfied. Any further investments pursuant to these SPAs would be purely discretionary.

76. The GP's newfound insistence that the Fund has obligations to the Portfolio Companies under the SPAs is belied by its admissions in the Chancery Court, where the GP admitted any further funding of the Portfolio Companies was purely discretionary and contingent on milestones. Ex. TT, Chancery Plaintiff ATP III GP, Ltd.'s Post-Trial Br. at 21 ("In many cases, the deployment of capital to the portfolio companies was tied to milestone-based tranches, but the

[48] *See* Ex. PP, Apertor Stock Purchase Agreement ¶¶ 1.3(a)–(c); Ex. QQ, Evercrisp Stock Purchase Agreement ¶¶ 1.3(a)–(c); Ex. RR, Initial Stock Purchase Agreement ¶¶ 1.3(a)–(c); Ex. SS, Red Queen Stock Purchase Agreement ¶ 1.3(a).

Fund *retained discretion* to disburse capital regardless of milestone progress." (emphasis added)). The deposition testimony of the GP's general counsel echoed that sentiment; he, too, confirmed that any further funding of the Portfolio Companies that had not met the milestones in their SPAs was purely voluntary.[49] The Court of Chancery accepted the GP's position on this issue. Ex. E, Chancery Post-Trial Op., Dec. 5, 2025, at 62 ("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 [to] meet capital calls." (emphasis added)).

77. The GP's prepetition conduct is fully consistent with its understanding that any further funding to the Portfolio Companies was purely voluntary. For example, in 2025, the Fund lent money to the Portfolio Companies via promissory notes rather than purchasing additional preferred stock—which it presumably would have done if the GP believed it had existing obligations to purchase that stock under the SPAs. *Compare* Docket No. 89, First Funding Motion ¶ 11 ("ATLS made the decision to provide emergency 'drip' funding on a secured basis in the form of secured promissory notes"), *with* Ex. O, Finkelman Dep. Tr., Oct. 3, 2025, at 126:4–10 ("Q. But you concluded that for the five companies with specified commitments tied to milestones in their SPAs, if milestones are not achieved, then ATP is not obligated to fund those milestones, right? . . . A. Correct."). There is thus no support for the Debtors' altered position in these chapter 11 cases.[50]

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[49] Finkelman (Vol. II) Dep. Tr. at 125:20–126:3 ("Q. You understood that for the fund's portfolio companies whose stock purchase agreements provided for funding based on the achievement of particular milestones, the fund was not obligated to fund if the milestones weren't achieved, correct? MS. REESE: Objection. A. Yes. But it had the right to fund.").

[50] Although the LPs' winding-up petition in the Cayman court stated that the GP had obligations to Portfolio Companies, the LPs had not received the SPAs and expressly relied on the GP's representations, including the allegations of the GP's Complaint in the Court of Chancery, which later were shown to be false when the LPs received copies of the SPAs for the first time through discovery. Ex. UU, Cayman Winding Up Petition, June 6, 2025, ¶ 63 (citing Ex. VV, Chancery Court Compl. ¶¶ 85, 143) ("The GP has also unjustifiably exposed the Partnership to open-ended funding commitments in respect of the portfolio companies. In particular, the

78. As to the Debtor Portfolio Companies, any obligation under the SPAs—and there was none—was terminated by their chapter 11 filings. The SPAs of each Debtor Portfolio Company provides that the Fund may terminate any additional funding obligations if the Portfolio Company "institutes any proceedings under the United States Bankruptcy Code" or any other bankruptcy-like law.[51] These "Series A Stock Purchase Agreements" are unequivocally "securities contracts," and the Fund's termination rights are enforceable in bankruptcy clauses remain valid in bankruptcy because under the safe harbor for securities contracts in section 365(e)(2)(B) of the Bankruptcy Code, which provides that *ipso facto* termination clauses remain in effect where the contract calls for the issuance of a security by the debtor—meaning, in the case of the SPAs, by the debtor Portfolio Company. *See* 11 U.S.C. § 365(e)(2) ("Paragraph (1) of this subsection [barring termination under an *ipso facto* clause] *does not apply* to an executory contract or unexpired lease of the debtor . . . if . . . (B) such contract is a contract to . . . issue a security of the debtor.").

79. The Debtors bear the burden of proving the need for the Fund to provide capital to the Debtor Portfolio Companies, and they have utterly failed to satisfy it.

B. ATVM's Management Fee

80. The Debtors have utterly failed to show that their proposed Management Fee to ATVM of $1.4 million payment is in the ordinary course of business or an appropriate exercise of

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Delaware Complaint says as follows . . ."); *see also id.* ¶ 64 ("The GP has also failed to provide information to the Petitioners about the Partnership's purportedly binding commitments to fund the portfolio companies, notwithstanding the Petitioners' requests that it do so (see paragraph 57 above). The GP's apparent decision to commit the Partnership to unconditional funding commitments unnecessarily exposes the Partnership to potential claims . . . ."). Once the LPs reviewed the actual SPAs, the LPs amended their Cayman petitions to delete these references that were made in reliance on the GP's false allegations. Ex. WW, Cayman Amended Winding Up Petition, Nov. 21, 2025, at 47 (striking paragraphs 63 and 64 of Cayman Winding Up Petition).

[51] Ex. PP, Apertor Stock Purchase Agreement ¶ 6.14(b); Ex. QQ, Evercrisp Stock Purchase Agreement, ¶ 6.14(b); Ex. RR, Initial Stock Purchase Agreement, ¶ 6.14(b); Ex. XX, Nereid Stock Purchase Agreement, ¶ 7.13(b); Ex. YY, Nine Square Stock Purchase Agreement, ¶ 6.14(b); Ex. SS, Red Queen Stock Purchase Agreement, ¶ 6.13(b); Ex. ZZ, Replicate Stock Purchase Agreement, ¶ 6.14(b).

business judgment. The very structure of the payment is inconsistent with the Management Agreement. Under the Management Agreement, Dr. Harrison was required to remit the $1.6 million earned from Akero stock options to the Fund; the failure to remit reduces the amount that Dr. Harrison can receive. The Management Fee is to be paid "at the beginning of each calendar quarter in each year" in an amount that is "not more than 25% of the maximum aggregate amount of the Management Fee for such year." *See* Ex. AAA, LPA Amendment No. 8 (amending ¶ 4 of the Management Agreement).[52] If the total Management Fee is $1.4 million, the most Dr. Harrison can receive in a quarter is 25% of $1.4 million or $350,000. It is not an appropriate exercise of the Fund's business judgment to pay Dr. Harrison multiples of what he is actually owed under the Management Agreement. Again, there is a solution: if Dr. Harrison pays the Fund the $1.6 million that it is owed under the Management Agreement, the LPs would consent to $750,000 being used to pay the first quarterly installment that Dr. Harrison would then be due under the Management Agreement, without waiving any claims for disgorgement or damages.

IV. Even if the Debtors Could Use Fund Assets in the Manner Contemplated, the Debtors Should Receive Only Interim Funding for a Six-Week Period.

81. Even ignoring all the deficiencies discussed above, the Debtors' request for funding through July 31, 2026, is unreasonable and should be rejected. Debtors seek millions of dollars over many months for companies that have been struggling for years, have attracted no interest, have offered no tangible plans for this next phase, and have track records of missing milestones and failing to effectively use the millions they have already received. There is no need to approve

[52] Although Debtors argue at paragraph 32 of the Second Funding Motion that LPA Amendment No. 14 amended the management agreement to remove quarterly payments and ATVM's obligation to remit net amounts owed to the Fund, that is false. LPA Amendment No. 14, cited in the Second Funding Motion at paragraph 32, only amends the first sentence of Section 4 of the Management Agreement, but does not amend the language in the sixth sentence (limiting ATVM to quarterly payment of the Management Fee) or the language in the seventh and final sentence (requiring ATVM to remit any new amounts owed to the Fund).

26 weeks of funding at a time when retention objections are pending, a motion to dismiss will be argued on February 25, relevant discovery needed to test the reasonableness of the requested funding has not been provided, and nobody other than the LPs is looking out for the interest of the Fund.

82. Recognizing these challenges, in an effort to create breathing room and preserve any value that may remain, the LPs proposed that the parties work toward a short-term bridge funding arrangements that would allow the Debtors to use some of the $97 million currently held in a segregated account for purposes other than what it was originally called for. The LPs even provided parameters for such a proposed compromise, indicating an openness to consensual bridge funding for a 6-week period (covering February 21 to April 3).

83. The LP's proposal for a mutually agreed short-term bridge funding has several benefits. *First*, in six weeks, surely the Debtors could produce information to the LPs for the assessment of the Portfolio Companies' scientific programs, which—if the Debtors engage in good faith discussions with the LPs—may pave the way for a consensual resolution of the remaining balance of the funding that the Debtors seek. *Second*, the Debtors recently informed the LPs that they intend to appoint an independent director. That appointment is a belated concession that the current arrangement does not adequately protect the Fund's interest. That independent director needs time to assess whether the proposed relief in the Second Funding Motion is in the best interests of the Debtors. And if truly independent, that director presumably will want to talk to the LPs before signing off on the Debtors' 26-week funding plan. *Finally*, the Court is set to adjudicate the LPs' pending motions to dismiss and lift the stay less than a week after the Second Funding Motion is heard. There is no reason to release tens of millions of dollars from the Fund to the Portfolio Companies now. If released and spent, that money may never be recovered, even though

the transactions could be considered void under Cayman law if Justice Asif orders that the Fund be wound up.

84. Although all of this has been explained to the Debtors, the Debtors have stonewalled. They have not engaged in any discussion over short-term funding. Indeed, they have not even provided the requested information necessary to have a conversation about the proposed short-term bridge funding.

85. Any relief that the Debtors receive under the Second Funding Motion should be limited to a six-week period, with the option for the Debtors to seek further relief from this Court if needed at a later juncture.

CONCLUSION

WHEREFORE, the LPs request that the Court deny the relief sought in the Second Funding Motion in full, or in the alternative, grant relief on an interim basis.

Dated: February 12, 2026
Wilmington, Delaware

Respectfully Submitted,

RICHARDS, LAYTON & FINGER, P.A.

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