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structure, which was intended to provide the Company with significant tax savings over time.

3. But within a month of the Company's IPO, Atlas management began exploring ways to collapse the Up-C structure so that the Company's controllers could benefit from tax savings they could personally achieve because the trading price and amount of outstanding Class A shares were lower than Atlas management and board of directors ("Board") expected, which in turn depressed the anticipated benefits of the Up-C structure. Although the expected benefits of the Up-C structure may have been less than Atlas management and the Board initially expected, they were still worth tens of millions of dollars. A reorganization, however, could provide the Company's controllers with even more valuable tax benefits.

4. And so, the Board formed a special committee ("Special Committee") to consider a reorganization. The process was flawed from the outset. The Special Committee was conflicted and not fully empowered. Instead of engaging its own financial advisor, the Special Committee relied on an untested tax analysis prepared for Company management. Rather than adequately represent the interests of the Company's minority stockholders, the Special Committee allowed the Controller Defendants to pursue their unique interests almost entirely unchecked.

5. On July 31, 2023, just four months after the IPO and only weeks after its formation, the Special Committee approved the Reorganization. The Reorganization was subsequently approved by written consent with no stockholder vote and no majority-of-the-minority voting condition.

6. Pursuant to the Reorganization, Atlas completed a merger with a new holding company. Each Class A share was exchanged for one share of newly created common stock. Each Class B share was cancelled for no consideration and each corresponding Atlas operating unit (other than those held by Atlas) was also exchanged for one share of newly created common stock.

7. The Reorganization provided the Controller Defendants substantial tax benefits in the form of reduced tax liabilities. Before the Reorganization, they would have been required to recognize part ordinary recapture income, subject to higher tax rates, upon exchanging their operating units for Class A shares, and later would have incurred long-term capital gains upon a sale of their investment in Atlas. Following the Reorganization, the Controller Defendants' tax liability was limited to long-term capital gain taxes upon a sale of their equity. The Company, on the other hand, lost valuable future tax savings it expected to receive under the Up-C structure. Despite the lost benefits, the Company's minority stockholders were not

adequately compensated for the benefits that the Controller Defendants received in the merger.

8. As a result, the one-to-one exchange ratio forced upon Class A stockholders in the Reorganization was unfair.

9. Through this Action, Plaintiff seeks to recover damages for the Company's former Class A stockholders resulting from the unfair exchange ratio and damages for the Company itself for the harm caused to it by the Reorganization.

PARTIES AND RELEVANT NON-PARTIES

I. PLAINTIFF

10. **Plaintiff Patrick Ayers** ("Plaintiff") was a beneficial owner of common stock of Atlas Energy Solutions Inc. ("Legacy Atlas"). Plaintiff held stock of Legacy Atlas continuously from June 5, 2023 to October 2, 2023, when his shares were converted into shares of New Atlas Holdco Inc. (individually "New Atlas" and together with Legacy Atlas, "Atlas" or the "Company") in connection with the Reorganization.¹ Plaintiff has remained a continuous owner of New Atlas since the closing of the Reorganization.

¹ As part of the Reorganization, Atlas's name changed from New Atlas Holdco, Inc. back to Atlas Energy Solutions Inc. See New Atlas's Post-Effective Amendment No. 1 Form S-8 filed with the United States Securities and Exchange Commission ("SEC") on October 3, 2023.

II. DEFENDANTS

11. **Defendant Ben M. “Bud” Brigham** (“Brigham”) is the founder of Atlas. After earning his Bachelor of Science in Geophysics from the University of Texas at Austin (“UT Austin”) and working for various companies in the oil and gas industry, Brigham formed several companies in that industry. In 1990, Brigham founded Brigham Exploration Company (“Brigham Exploration”), which completed its IPO in 1997. Brigham served as Brigham Exploration’s President, CEO, and Chairman of the board of directors until December 2011, when Brigham Exploration was acquired by Statoil ASA (“Statoil”). In 2012, Brigham co-founded Brigham Minerals, Inc. (“Brigham Minerals”) and served as its Executive Chairman and a director alongside current Atlas directors Burleson, Hock, and Langford (defined below) until its merger with Sitio Royalties (“Sitio”) in December 2022.

12. Brigham has served as Executive Chairman of the Atlas Board since Legacy Atlas was formed in 2017 and served as CEO of Atlas from August 2022 until March 2024. As the sole manager of Holdings and Holdings II (as defined below), Brigham was at all relevant times the controlling stockholder of Legacy Atlas. At the time of the Reorganization, Brigham owned or controlled approximately 82.3 million shares of Atlas common stock, including all outstanding Class B shares, which represented approximately 82% of the Company’s voting

power. Prior to the Reorganization, Brigham owned Atlas operating units and was thus interested in the Reorganization.

13. The Company conceded that Brigham controlled Legacy Atlas. The S-4 filed in connection with the Reorganization acknowledged that the Principal Stockholders (defined below) owned approximately 82.3% of Legacy Atlas's voting power following the IPO. Further, Legacy Atlas was disclosed as a "controlled company" under NYSE rules.

14. Similarly, New Atlas's Proxy Statement on Schedule 14A filed with the SEC on March 29, 2024 acknowledges Brigham's voting power:

Brigham may be deemed to have shared voting power over all securities held by the Principal Stockholders party to the . . . Stockholders' Agreement, in light of his right to designate nominees for election to the Board and the obligation of the Principal Stockholders to vote their respective shares in favor of Mr. Brigham's nominees.

15. **Defendant Douglas G. Rogers** ("Rogers") has been a member of the Board since March 2023. Legacy Atlas's registration statement on Form S-4 filed with the SEC on August 1, 2023 (the "S-4" or "Registration Statement") acknowledged that Rogers is not an independent director under New York Stock Exchange rules. Rogers is the Executive Director, Secretary, Treasurer and a member of the board of directors of the Sealy & Smith Foundation ("Sealy & Smith"), a Texas charitable organization that owns approximately 13.5% of Atlas's

common stock. Sealy & Smith was previously a party to a royalty agreement with Atlas, pursuant to which Atlas paid Sealy & Smith \$19 million in 2023, totaling approximately 7.3% of Atlas's cost of sales. The royalty agreement terminated on the date of Atlas's IPO. Sealy & Smith is also party to a mining agreement with Atlas, pursuant to which Atlas is required to pay royalties on products sold from its leased property in Monahans, Texas and pay a minimum royalty of \$1 million for any lease year following its IPO.² An August 4, 2023 article notes that Sealy & Smith "will make a risk-free royalty of about \$3 on every ton that Atlas mines for the next 94 years."³

16. Sealy owned Atlas Operating units prior to the Reorganization, and therefore, Rogers was interested in the Reorganization.

17. **Defendant A. Lance Langford** ("Langford") has been a member of the Board since March 2023. Langford is currently the CEO of Langford Energy Partners LLC ("Langford Energy"), where Brigham currently serves as Chairman. Brigham's son, Conner, also works for Langford Energy as a geologist. Langford

² Atlas Energy Solutions, Inc., Proxy Statement (Schedule 14A) at 18 (Mar. 29, 2024) (hereinafter referred to as the "2024 Proxy").

³ Christopher Helman, *The Texas Tycoon Making a New Fortune Selling Sand to Frackers*, FORBES (Aug. 4, 2023, 6:30 AM), <https://www.forbes.com/sites/christopherhelman/2023/08/04/the-texas-tycoon-making-a-new-fortune-selling-sand-to-frackers>.

served as a director of Atlas Sand Company, LLC (“Atlas LLC”)—the predecessor to Legacy Atlas and New Atlas—from 2018 to March 2023. He also served on the Brigham Minerals board from August 2020 until its merger with Sitio. From 1995 to 2011, Langford built and led the engineering, operations, marketing, and midstream departments of Brigham Exploration, Brigham’s first business, ultimately serving as its Executive Vice President of Operations. In 2017, Langford was inducted into Texas Tech University’s prestigious (and exclusive) Academy of Petroleum Engineers, whose membership includes just 120 people, including fellow Atlas director Burleson (defined below), who was inducted into the Academy in 2014.

18. Prior to the Reorganization, Langford owned Atlas Operating units and was thus interested in the Reorganization.

19. **Defendant Stacy Hock** (“Hock”) has been a member of the Board since March 2023. Hock served on Brigham Minerals’ board of directors from January 2022 to December 2022 along with Brigham, Langford, and Burleson. Hock is also a member of the board of the Texas Public Policy Institute (“TPPI”), a conservative think tank. The Brigham Family Foundation (the “Brigham Foundation”), a non-profit run by Brigham and his wife, donated over \$2 million to TPPI between 2011 and 2021. TPPI was by far the largest beneficiary of the

Brigham Foundation during that period. Hock and Brigham have also donated to the same charity: in 2014, Hock and Brigham, along with each of their respective spouses, donated over \$25,000 to CASA of Travis County. Similarly, Hock and Langford made sizeable contributions to CASA of Travis County in 2016.

20. Prior to the Reorganization, Hock owned Atlas Operating units and was thus interested in the Reorganization.

21. **Defendant Stephen Cole** (“Cole”) served as a director of Atlas from March 2023 through September 14, 2023. Prior to the Reorganization, Cole owned Atlas Operating units and was thus interested in the Reorganization.

22. Defendants Brigham, Rogers, Langford, Hock, and Cole are sometimes collectively referred to herein as the “Director Defendants.”

23. **Defendant Atlas Sand Holdings, LLC** (“Holdings”) is a Delaware Limited Liability Company. As of July 26, 2023, Holdings was the record owner of 2,255,395 shares of Class A common stock and 42,852,499 shares of Class B common stock (representing 100% of the outstanding Class B shares).

24. **Defendant Atlas Sand Holdings II, LLC** (“Holdings II”) is a Delaware Limited Liability Company. As of July 26, 2023, Holdings II was the record owner of 36,892,106 shares of Class A common stock.

25. **Defendant Atlas Sand Management Company, LLC** (“ASMC”) is a Texas Limited Liability Company. ASMC is the managing member of Holdings, and Brigham is the sole managing member of ASMC.

26. **Defendant Atlas Sand Management Company II, LLC** (“ASMC II”) is a Delaware Limited Liability Company. According to the Registration Statement, ASMC II is the managing member of Holdings II, and Brigham is the sole managing member of ASMC II.

27. Defendants Brigham, Holdings, Holdings II, ASMC, and ASMC II are sometimes collectively referred to herein as the “Controller Defendants.” Prior to the Reorganization, the Controller Defendants collectively controlled approximately 82% of the voting power at Atlas.

III. RELEVANT NON-PARTIES

A. Non-Defendant Directors

28. **Gayle Burleson** (“Burleson”) has been a member of the Board since March 2023 and was a member of the Special Committee that approved the Reorganization. Burleson served on Brigham Minerals’ board of directors with Brigham and Langford from January 2022 until it was acquired by Sitio, where she remains a director. Based upon publicly available information, Burleson earned \$206,398.33 and \$297,200.00 in 2023 for her service on the Atlas and Sitio boards

of directors, respectively. Upon information and belief, since joining the Brigham Minerals' board of directors in 2022, Burleson's only other source of income is from her service on Select Water Solutions, Inc.'s board of directors, for which she earned \$236,179.00 in 2023. Accordingly, upon information and belief, Burleson derives most of her income from the directorships she secured through Brigham. Burleson's husband, Jerry Burleson, also lists his employment on LinkedIn as "Business and Operations Manager" at "Atlas Companies." In 2014, Burleson was inducted into Texas Tech University's Academy of Petroleum Engineers, of which Langford is also a member.

29. **Mark P. Mills** ("Mills") has been a member of the Board since March 2023 and was a member of the Special Committee that approved the Reorganization. Brigham is a long-time benefactor of Mills' work. Mills is a Distinguished Senior Fellow at TPPI, of which Brigham is a major donor. Mills is also a Senior Fellow at the Manhattan Institute. According to public tax records, the Brigham Foundation made five separate donations to the Manhattan Institute between 2015 and 2019, including multiple donations earmarked for the energy and environmental work in which Mills specializes. Mills and Brigham both presented at the August 2017 Texas Independent Producers & Royalty Owners annual meeting and the November 30, 2017 Crossroad IV: Energy & Climate Policy Summit. Brigham has repeatedly

praised Mills on X (formerly known as Twitter), describing his work as “outstanding,”⁴ a “must listen,”⁵ and “terrific.”⁶

30. **Robb Voyles** (“Voyles”) has been a member of the Board since March 2023 and was a member of the Special Committee that approved the Reorganization. Brigham and Voyles appear to have a very close friendship. Voyles assisted Brigham in obtaining membership and property in the exclusive Iron Horse Golf Club (the “Club”) in Whitefish, Montana.⁷ According to local property records, Voyles built a home on property he purchased on Club grounds in approximately 2007. Voyles subsequently sold that home to a friend and fellow Texan, Robert Douglas (“Douglas”)⁸ and bought another house on Club property, just down the

⁴ Bud Brigham, X.COM (Jan. 8, 2024), <https://x.com/bmbrigham/status/1744503443891339321>.

⁵ *Id.*

⁶ Bud Brigham, X.COM (June 25, 2022), <https://x.com/bmbrigham/status/1540754598012387329>.

⁷ As of July 2021, there were 41 applicants on the waitlist to join the Club. *See* Iron Horse Golf Club, Summary of Iron Horse Golf Club 13th Annual Membership Meeting (July 20, 2021, 3:00 PM), <https://ironhorsegolfclub.com/wp-content/uploads/2021/09/2021-Annual-Meeting-Summary-2.pdf>.

⁸ Voyles and Douglas also own apartments on the same floor of a luxury high rise in Dallas. *See* Flathead County, 2019 Real Estate Tax Bill, <https://taxes.flathead.mt.gov/PDF/2019/RE/0003337-201942104.pdf> (last visited June 26, 2024); Flathead County Treasurer, 2023 Real Estate Statement of Taxes Payable, <https://taxes.flathead.mt.gov/PDF/2023/RE/0003334-202303057.pdf> (last visited June 26, 2024). IAG LLC is a Montana LLC of which Voyles is the sole member.

street from his first home.⁹ Voyles joined the board of the Club in July 2019 and succeeded Douglas as president of the Club in July 2020.¹⁰ In 2022, Brigham purchased Voyles’s old home from Douglas. Voyles likely helped Brigham obtain a coveted membership to the Club and tipped him that Voyles’s old home would be available for purchase. Brigham and Voyles are now practically next-door neighbors.

31. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

32. Voyles was an attorney at Baker Botts LLP (“Baker Botts”) from approximately 1988 to 2014, including in Austin and Dallas. Baker Botts is well known for its oil and gas practice.

⁹ Flathead County, 2018 Real Estate Tax Bill, <https://taxes.flathead.mt.gov/PDF/2018/RE/0003334-201841754.pdf> (last visited June 26, 2024).

¹⁰ Iron Horse Golf Club, Minutes of the Board of Directors of Iron Horse Golf Club (July 19, 2019 5:00 PM) <https://ironhorsegolfclub.com/wp-content/uploads/2020/01/7.19.19-5pm-BOD-Meeting-Minutes.pdf>; Iron Horse Golf Club, Minutes of the Board of Directors of Iron Horse Golf Club (July 24, 2020 4:00 PM) <https://ironhorsegolfclub.com/wp-content/uploads/2020/09/7.24.20-4pm-BOD-Meeting-Minutes-3.pdf>.

33. Voyles also served as Executive Vice President, Secretary, and Chief Legal Officer at Haliburton Company (“Halliburton”) from 2014 through 2021. Halliburton and Brigham have a history of collaboration. In an August 15, 2011 article, Langford discussed Haliburton’s and Brigham’s collaboration on the “RapidFrac” technology, saying:

Brigham’s success in the Bakken has been driven by its early adoption of game-changing technologies. . . We believe our industry is in the very early stage of developing tools and techniques to optimally exploit the Bakken and working with Halliburton to successfully launch its RapidFrac system is an example of what can be done in this world class resource.¹¹

B. Non-Defendant Officers and Former Directors

34. **John Turner** (“Turner”) has served as Atlas’s CEO since March 2024, as Atlas’s President since November 2022, and as Atlas’s Chief Financial Officer (“CFO”) since April 2017. Upon Turner’s appointment as Atlas’s CEO, Brigham confirmed that he and Turner were both founders of Legacy Atlas in 2017.¹² Turner previously served as CFO of Brigham Exploration Company LLC (“Brigham

¹¹ *Haliburton Introduces RapidFrac Completion System*, WORLD OIL (Aug. 15, 2011) <https://www.worldoil.com/news/2011/8/15/halliburton-introduces-rapidfrac-completion-system>.

¹² See Press Release, Atlas Energy Solutions Inc., *Atlas Energy Solutions Inc. Completes Previously Announced Acquisition of Hi-Crush Inc. and Announces Promotion of John Turner to CEO*, (Mar. 5, 2024), <https://ir.atlas.energy/news-events/press-releases/detail/31/atlas-energy-solutions-inc-completes-previously-announced>.

Exploration LLC”), Brigham’s second company founded in 2017. Turner also served as Vice President of Brigham Exploration alongside Langford, who previously served as Brigham Exploration’s Executive Vice President—Operations. Turner received a Bachelor of Business Administration and an MBA from UT Austin.

35. Prior to the Reorganization, Turner owned Atlas Operating units and was thus interested in the Reorganization.

36. **Dathan C. Voelter** (“Voelter”) has served as the General Counsel and Secretary of Atlas since December 2021 and previously served as Atlas’s Deputy General Counsel and Secretary from April 2019 until December 2021. Voelter previously was an attorney with Vinson & Elkins LLP (“V&E”). Voelter received a Bachelor of Business Administration in International Business from UT Austin.

37. Prior to the Reorganization, Voelter owned Atlas Operating units and was thus interested in the Reorganization.

38. **Gregory M. Shepard** (“Shepard”) served as a member of the Board since September 2023 until May 9, 2024. As of March 18, 2024, Shepard beneficially owned 7,319,428 shares of Atlas common stock, representing approximately 6.66% of the Company’s outstanding shares of common stock.

39. Prior to the Reorganization, Shepard owned Atlas operating units and was thus interested in the Reorganization.

40. As a result of the conflicts among Atlas's Board members, a majority of the Board at the time of the Reorganization was either interested in the Reorganization or lacked independence from Brigham and/or the other interested directors.

SUBSTANTIVE ALLEGATIONS

IV. ATLAS COMPLETES AN IPO AND FORMS AS AN UP-C

41. Atlas provides proppant and associated logistics services to the oil and gas industry in Texas and New Mexico. For example, Atlas sells fine-grade sand proppant used during hydraulic fracturing (a/k/a fracking) to hold fractures open during wellsite fracturing operations, which Atlas delivers directly to wellsites.

42. Atlas LLC, Atlas's predecessor, conducted a capital raise shortly after its formation in 2017. The capital raise included investors who had previously invested in Brigham's prior enterprises (the "Legacy Owners"), including: (i) Brigham; (ii) Turner; (iii) Voelter; (iv) Langford and his spouse, Brenda L. Langford; (v) Shepard; and (vi) Hock and her spouse, Joel Hock (collectively, the "Principal Stockholders").

43. In February 2022, in anticipation of an IPO, Atlas LLC formed Legacy Atlas and incorporated it as a Delaware corporation. On March 13, 2023, Legacy Atlas completed an IPO and began trading publicly on the New York Stock Exchange under the ticker symbol “AESI.”

44. Just before the IPO was completed, Legacy Atlas and the Principal Stockholders entered into a stockholders’ agreement (the “Stockholders’ Agreement”) on March 8, 2023, granting Brigham certain rights, including the right to (i) determine the size of Legacy Atlas’s board of directors and (ii) designate all of its members, so long as the Principal Stockholders and any of their affiliates (*i.e.*, Brigham and his affiliates) retained more than 50% of Atlas’s outstanding common stock. Pursuant to the Stockholders’ Agreement, the Principal Stockholders agreed to vote their shares in favor of Brigham’s Board nominees. As a result, Brigham was deemed to have beneficial ownership of these shares.

45. Legacy Atlas conducted the IPO in an Up-C structure. “The Up-C structure presents a unique combination of the benefits of C corporation status (namely the ability to go public) with the benefits of flow-through taxation.”¹³ Up-

¹³ Gregg D. Polsky & Adam H. Rosenzweig, *The Up-C Revolution*, 71 TAX L. REV. 415, 434 (2018) (“[T]raditionally when LLCs went public, the transaction was structured as a tax-free § 351 transaction. The legacy owners would contribute their LLC interests into

C structures are designed to allow the existing owners of an LLC to gain liquidity through access to the public capital markets while retaining pass-through tax treatment for revenues from the operating business. In an Up-C IPO:

[A] C corporation is placed atop [the] LLC, which is owned partially by the C corporation and partially by other investors, typically individuals and private investment partnerships such as venture capital (VC) or private equity (PE) funds. These investors also receive exchange rights that allow them to periodically tender their LLC interests for equivalent-value stock in the parent C corporation. When these exchanges occur, they are taxable exchanges to the investors and result in a stepped-up basis in a proportional part of the LLC's assets. This stepped-up basis will reduce the C corporation's future taxable income and often its future tax liability.¹⁴

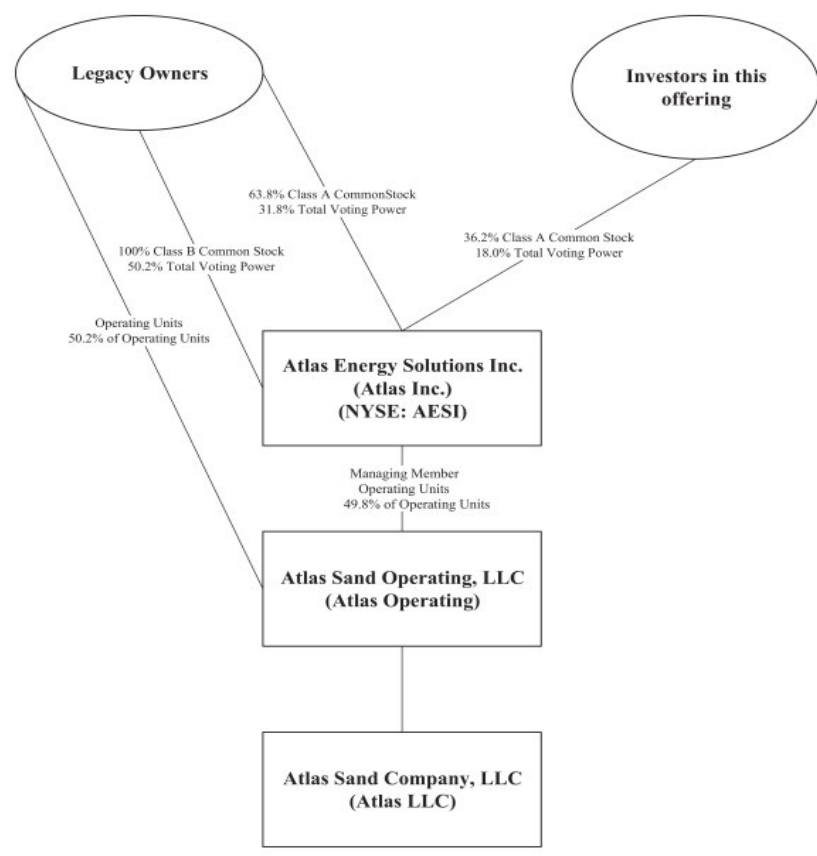
46. Legacy Atlas's Up-C IPO created a three-tiered corporate structure, with Legacy Atlas sitting at the top. Public investors held 36.2% of Legacy Atlas's Class A Common Stock, while the Legacy Owners owned 63.8% of Legacy Atlas's Class A Common Stock and 100% of Legacy Atlas's Class B Common Stock.¹⁵ Legacy Atlas's sole material asset consisted of a 49.8% ownership interest in the

Newco in exchange for Newco stock, with the public simultaneously buying shares of Newco stock for cash. Under § 351, the legacy owners would receive the benefit of deferral, with tax due only if and when they sold their Newco shares. A major downside of this structure, however, was that Newco would take a carryover basis in its assets, rather than a stepped-up basis.”).

¹⁴ *Id.* at 416.

¹⁵ Atlas's Class B Common Stock had no economic rights but entitled holders to one vote per share.

operating units of Atlas Sand Operating, LLC (“Atlas Operating”), with the remaining 50.2% interest owned by the Legacy Owners. Atlas Operating was a holding company whose sole material asset was 100% of the membership interests in Atlas LLC, which owned all of Legacy Atlas’s operating assets. Legacy Atlas published the below diagram in its February 28, 2023 amended IPO registration statement (the “S-1”) summarizing the Up-C structure:



47. Following the IPO, Legacy Atlas assumed responsibility for the Company's operational, management, and administrative decisions and consolidated the financial results of Atlas LLC and its subsidiaries.

48. Legacy Atlas contributed the net proceeds it received in the IPO to Atlas Operating in exchange for common units equal to the number of shares of Legacy Atlas Class A common stock outstanding after the IPO. Atlas Operating, in turn, contributed the net proceeds from the IPO to Atlas LLC.

49. In the months leading up to the IPO, the Legacy Owners formed Holdings, Holdings II, ASMC, and ASMC II (the "HoldCos") to hold the Legacy Owners' membership interests in Atlas Operating.

50. The Legacy Owners possessed the right to cause Atlas Operating to acquire their Atlas operating interests (the "Operating Units") in exchange for cash or an equivalent number of Class A common stock of Legacy Atlas (the "Redemption Right"). Upon exercise of the Redemption Right, Legacy Atlas could acquire these same units directly from a Legacy Owner (rather than going through Atlas Operating) in exchange for cash or an equivalent number of Legacy Atlas Class A common stock (the "Call Right"). Upon such an exchange, the Atlas operating unit holders would have had to recognize taxable gains partially as ordinary income and partially as capital gains.

51. In connection with the IPO, the Legacy Owners, through the HoldCos, transferred some or all of their common units and voting rights in Atlas Operating to Legacy Atlas. Those Legacy Owners who retained some of their membership interests in Atlas Operating were issued shares of Atlas Class B Common Stock, while those who transferred their entire membership interests in Atlas Operating were issued Atlas Class A Common Stock. Notably, an Underwriting Agreement between Legacy Atlas and the IPO underwriters included a lock-up provision prohibiting the Legacy Owners and Atlas's officers and directors from transferring their Class A common stock in Legacy Atlas for 180 days after the IPO (the "Lock-Up Period").

52. In advance of the IPO, Legacy Atlas made statements touting the benefits of the Up-C structure. In the S-1, Legacy Atlas explained that it selected the Up-C structure to:

(i) allow certain Legacy Owners the option to continue to hold their economic ownership in Atlas LLC in "pass-through" form for U.S. federal income tax purposes through their direct and indirect ownership of [units of Atlas Operating], and (ii) potentially allow [Legacy Atlas] to benefit from certain net cash tax savings that [it] might realize as a result of certain increases in tax basis that may occur as a result of Atlas[s] acquisition (or deemed acquisition for U.S. federal income tax purposes) of [units of Atlas Operating] pursuant to the exercise of the Redemption Right . . . or the Call Right.

53. Legacy Atlas also predicted that its Up-C structure would benefit common stockholders. The S-1 noted:

In contrast to many offerings by issuers choosing an Up-C structure, we have made the decision not to enter into a tax receivable agreement with the Legacy Owners with respect to any such cash tax savings we might realize, which we believe provides for increased alignment between us and our stockholders over the long term.

54. The S-1 added that the absence of a tax receivable agreement was “an example of the shareholder alignment we intend to instill through corporate governance policy.”

V. ATLAS ABRUPTLY MOVES TO ABANDON THE UP-C STRUCTURE TWO MONTHS LATER AND THE BOARD FORMS A CONFLICTED SPECIAL COMMITTEE

55. In April 2023, just a month after the IPO—and before the Lock-Up Period even expired—Atlas management (who were holders of Atlas Operating Units) began exploring a possible reorganization to collapse its Up-C capital structure. Eliminating the Up-C structure would enable Atlas management and other holders of Atlas Operating units, including the Controller Defendants, to convert their Atlas LP Units into Atlas common stock in a tax-favorable manner, providing them a non-ratable benefit at no cost to themselves. It would also harm the Company and the stockholders who did not own Atlas Operating units by, among other things,

eliminating future tax benefits Atlas and the Company’s public stockholders were expected to enjoy.

56. Management enlisted V&E, its legal advisor, and KPMG LLP (“KPMG”), its tax advisor, to propose potential transaction analyses and structures. At management’s behest, and ostensibly to bolster management’s decision to eliminate the Up-C structure, KPMG conducted a post-IPO tax analysis, which reflected that the estimated tax benefits from the Company’s Up-C structure did not materialize in the months since the IPO (the “KPMG Analysis”).

57. Armed with the six-page KPMG Analysis, management pushed forward with a potential reorganization and introduced the concept to the Board during a May 22, 2023 Board meeting. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

58. Recognizing management’s inherent conflict of interest resulting from their ownership of Atlas Operating Units, the Board established a special committee of purportedly independent and disinterested directors (previously defined herein as the “Special Committee” or “Committee”) to explore the potential reorganization.

59. The members of the Special Committee, Burleson, Mills, and Voyles, all had close ties to Brigham that prevented them from functioning independently.¹⁶ Brigham provides Burleson and her husband with their primary sources of income. Brigham is a long-standing benefactor of Mills, having made substantial donations to two of his employers. [REDACTED]

[REDACTED]

[REDACTED]

60. The Special Committee was also not adequately empowered. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]¹⁷

But the Special Committee lacked the ultimate authority to “say no” and was not authorized to consider alternative transactions. However, the Registration Statement falsely states that the Special Committee was empowered to “approve *or disapprove* of the Reorganization[.]”¹⁸

¹⁶ See *supra* ¶¶ 28–33.

¹⁷ (emphasis added).

¹⁸ Registration Statement at 62 (emphasis added).

61. The Board’s failure to fully empower the Special Committee, coupled with their conflicts of interests, rendered the process unfair from the outset.

VI. THE SPECIAL COMMITTEE CONDUCTED A PERFUNCTORY REVIEW OF THE REORGANIZATION

62. Although the Special Committee nominally considered the Reorganization, it allowed itself to be steamrolled by conflicted management and its advisors. During the first Special Committee meeting on June 7, 2023, [REDACTED]

[REDACTED]

[REDACTED] Management’s presentation included a summary of the advantages and disadvantages of the current Up-C structure. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

63.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

64.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

65. The Special Committee met again on June 12, 2023. During the meeting, Atlas management discussed how a potential reorganization would affect the Company's public stock and the disparate tax treatment for the Class A and Class B common stockholders.¹⁹ [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

66. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

¹⁹ Registration Statement at 62.

67. On June 28, 2023, the Special Committee met to discuss Baker Botts’s review of the KPMG Analysis.²⁰ The Special Committee prepared a list of questions for management to address, which were circulated before the call scheduled for July 3.²¹

68. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

69. The Special Committee and Atlas management met on July 3, during which Atlas management responded to the Special Committee’s questions. Two days later, the Special Committee met again to discuss management’s answers.

70. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

²⁰ *Id.* at 63.

²¹ *Id.*

[REDACTED]

[REDACTED]

[REDACTED]

71. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

72. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

73.

[REDACTED]

74.

[REDACTED]

[REDACTED] Of course, the Reorganization would not actually increase the

market value of the Company's and its subsidiaries' equity, it would just make it easier to calculate as anyone interested would not have to separately calculate the value of Class A shares and the value of the Atlas Operating Units not held by Atlas.

75. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

76. In other words, instead of exploring alternative transaction structures or negotiating value for minority stockholders, the Special Committee was myopically focused on finalizing a reorganization at management's initial terms.

77. On July 8, 2023, only a month after the Special Committee was formed and without any negotiations between the Special Committee and management, V&E provided Baker Botts with an initial draft of the Master Reorganization Agreement ("MRA").²²

²² Registration Statement at 63.

78. The Special Committee met again on July 10, 2023, and discussed with Baker Botts the Information Statement/Registration Statement and other transaction documents it received from V&E. According to the Registration Statement, discussions concerning the draft MRA included proposing that conflicted V&E, *i.e.*, counsel for the Company, would render a tax opinion that the “Pubco Merger will qualify as a nontaxable transaction to the holders of Class A Common Stock[,]”²³ essentially blessing the Reorganization for the Company’s public stockholders who did not have the opportunity to participate in an unaffiliated vote on the Reorganization.

79. According to the Registration Statement, the Special Committee and management exchanged drafts of the Reorganization-related documents, but only minor revisions were made.²⁴

VII. THE SPECIAL COMMITTEE AND BOARD APPROVE THE REORGANIZATION

80. On July 31, 2023, the Special Committee met for the final time and unanimously adopted resolutions approving the Reorganization.

²³ *Id.*

²⁴ *Id.* at 64 (describing revisions relating to, *inter alia*, appraisal rights, the termination provision, and closing conditions).

81. Prior to approving the Reorganization, [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] Yet the Special Committee failed to ensure that stockholders were compensated for these losses. There is no evidence that the Special Committee engaged in substantive negotiations with Atlas management to ensure the minority stockholders received fair value or pursued alternative options that would have furthered their interests.

82. At bottom, the Special Committee approved the Reorganization without negotiating any benefits for the minority stockholders or even raising the possibility of securing a majority-of-the-minority voting provision. Instead, the Special Committee acquiesced to management's demands, hurried the process, and approved the Reorganization at management's behest.

83. Before the Special Committee approved the Reorganization, the Board executed a written consent approving the MRA and related documents, dated July 31, 2023 (the "July 31 Written Consent"). [REDACTED]

[REDACTED]

[REDACTED]

84. Atlas issued a press release on July 31 announcing the Board’s approval of the Reorganization, pursuant to which, among other things: (i) all outstanding shares of the Company’s Class A common stock and all outstanding Operating Units, would be exchanged on a 1:1 basis for shares of common stock of New Atlas and (ii) all outstanding shares of Class B common stock that correspond to the outstanding Operating Units will be surrendered and canceled for no consideration.²⁵

85. On the same day, the Company entered into the MRA, setting forth the terms of the Reorganization, and on August 1, 2023, New Atlas filed the Registration Statement.²⁶

²⁵ See Press Release, Atlas Energy Solutions Inc., *Atlas Energy Solutions Inc. Announces Effectiveness of Registration Statement on Form S-4 in Connection with Previously Announced Up-C Simplification* (Sept. 13, 2023), <https://ir.atlas.energy/news-events/press-releases/detail/22/atlas-energy-solutions-inc-announces-effectiveness-of>.

²⁶ *Id.*

86. On October 2, 2023, the Reorganization closed.²⁷

VIII. THE REORGANIZATION WAS UNFAIR TO MINORITY STOCKHOLDERS AND THE COMPANY

87. The Reorganization was driven by the Atlas Operating unitholders for their own benefit and rubber-stamped by a Special Committee that failed to negotiate any value or procedural protections for minority stockholders—such as conditioning the approval of the Reorganization on a majority-of-the-minority vote. Unsurprisingly, the unfair process led to an unfair price. Minority stockholders did not share in the non-ratable tax benefits Atlas Operating unitholders received in the Reorganization.

88. Because the Reorganization provided benefits to the Class B common stockholders (as holders of Atlas Operating units) and harmed the Company, Class A stockholders should have received a higher exchange ratio in the Reorganization merger than Class B stockholders. The receipt of unfair merger consideration directly harmed Class A stockholders.

89. The Reorganization benefitted Defendants at the expense of the Company. It conferred significant tax benefits on management and other Atlas Operating unitholders, who will have lower tax payments, while simultaneously

²⁷ *Id.*

eliminating significant tax benefits the Company expected to receive in the future. As a result of the Reorganization, unitholders can exchange their units for New Atlas shares on a tax-free basis. According to the Registration Statement, those unitholders now will only have to pay long-term capital gains taxes upon a later sale of New Atlas shares. Under the prior Up-C structure and without the Reorganization, the unitholders would be required to recognize part ordinary recapture income (which is taxed at higher rates) upon exchanging their operating units for Class A shares and part long-term capital gains upon a later sale of their investment in Atlas.

90. Although Atlas did not disclose the quantum of the expected tax benefits to the Principal Stockholders and other holders of the operating units, the Registration Statement made clear that providing these benefits was a key reason why the Special Committee and Board approved the Reorganization.

91. While the Reorganization benefited the Principal Stockholders and other unitholders, it affirmatively harmed the Company. The pre-Reorganization Up-C structure was expected to provide net cash tax savings to the Company. As explained in the Registration Statement, exchanges of Atlas Operating units for Class A shares would have resulted in increases in the Company's tax basis related to the underlying assets, which in turn would increase associated depreciation,

depletion, and amortization deductions, reducing Atlas’s taxable income. The Reorganization will not provide the Company with these tax benefits. According to the Registration Statement, “the amount of tax benefits lost as a result of the Reorganization is . . . expected to be material and will likely to increase our tax liability materially.”²⁸

92. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

93. Following the Reorganization, no Atlas Operating units will be held by any person other than the Company, and there will be no future exchanges of units

²⁸ Registration Statement at 68.

for shares of Class A common stock, resulting in the elimination of future tax benefits that would have been available to Atlas if the Company had maintained its Up-C structure.

94. The Registration Statement acknowledged:

As a result of the Reorganization, the anticipated net cash tax savings attributable to the Up-C structure will no longer be available to us. The expected loss of these tax benefits is likely to adversely impact our future tax liability, and this adverse impact could significantly outweigh any costs savings and/or other benefits resulting from the Restructuring, which could adversely affect our liquidity or the value of our Class A Common Stock.²⁹

95. The Reorganization also hampered the Company's flexibility with respect to future acquisitions. The Company recognized that one reason for adopting the Up-C structure at the time of the IPO was to allow the company to offer Atlas Operating equity as consideration to sellers of assets to Atlas in future transactions. Many potential sellers would only be able to receive operating units as tax-deferred compensation as the receipt of Class A shares would have been fully taxable to them. Now, following the Reorganization, the Company can no longer easily offer liquid operating units to sellers.

²⁹ Registration Statement at 17.

96. In fact, large acquisitions are part of the Company’s business plan. For example, on February 26, 2024, just a few months after the completion of the Reorganization, New Atlas entered into an agreement to acquire all of Hi-Crush Inc.’s (“Hi-Crush”) Permian Basin proppant production assets and North American logistics operations for \$150 million in up-front cash, \$125 million in deferred cash payments, and \$175 million worth of New Atlas stock.

97. The anticipated cost savings from the Reorganization did not outweigh the loss of future tax benefits. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] Moreover, the Company incurred significant costs to hire advisors and complete the Reorganization itself only months after the IPO, when the Company asserted the Up-C structure was in stockholders’ best interests.

98. Further, the Reorganization will only result in greater liquidity for the Company’s stock if the former Atlas Operating unitholders choose to sell their New

Atlas shares. Even under the former Up-C structure, these unitholders would have had to convert their operating units into Company shares if they chose to sell their equity, thus creating greater liquidity for the shares and providing tax benefits to the Company.

99. Despite the foregoing, the Special Committee failed to negotiate any consideration whatsoever for Atlas's minority stockholders in connection with the Reorganization.

100. The Special Committee also failed to condition the Reorganization on the approval of the Company's minority stockholders. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

CLASS ACTION ALLEGATIONS

101. Plaintiff brings this Action pursuant to Rule 23 of the Rules of the Court of Chancery, individually and on behalf of all other former holders of Atlas Class A common stock (except Defendants herein, and any persons, firm, trust, corporation, or other entity related to or affiliated with them and their successors in interest) (the "Class").

102. This Action is properly maintainable as a class action.

103. A class action is superior to other available methods of fair and efficient adjudication of this controversy.

104. The class is so numerous that joinder of all members is impracticable. As of September 11, 2023, Atlas had 57,147,501 Class A common shares outstanding held by thousands of holders throughout the nation and the world.³⁰

105. The case presents questions of law and fact that are common to all class members and predominate over any questions affecting only individuals.

106. Plaintiff is committed to prosecuting this action and has retained competent counsel experienced in litigation of this nature.

107. Plaintiff's claims and defenses are typical of claims and defenses of other class members, and Plaintiff has no interests antagonistic or adverse to the interests of other class members. Plaintiff is an adequate representative to protect the interests of the Class.

108. The prosecution of separate actions by individual members of the Class would create a risk of inconsistent adjudications with respect to individual members of the Class, and accordingly incompatible standards of conduct for Defendants, or

³⁰ See Atlas's Schedule 14A filed with the SEC on March 29, 2024, at 29.

adjudications with respect to individual members of the Class that would, as a practical matter, be dispositive of the interests of other Class members or substantially impair or impede their ability to protect their interests.

109. Defendants have acted in a manner that affects Plaintiff and all members of the Class alike, thereby making appropriate injunctive relief with respect to the class as a whole.

DERIVATIVE ALLEGATIONS

110. Plaintiff also brings this Action derivatively to redress injuries suffered by the Company as a result of Defendants' breaches of fiduciary duty.

111. Plaintiff is currently an Atlas stockholder and has held Atlas stock continuously since prior to the announcement of the Reorganization. Plaintiff will fairly and adequately represent the interests of Atlas and its stockholders in enforcing and prosecuting their rights and has retained counsel competent and experienced in stockholder derivative litigation.

112. Plaintiff did not make a demand on the Board to assert the claims set forth herein because pre-suit demand is excused as a matter of law. The current Board consists of eight members: Brigham, Burleson, Hock, Langford, Mills, Rogers, Voyles, and Mike Howard. As set forth above and summarized below,

seven of these eight directors were either interested in the Reorganization or lack independence from those who were interested.

113. Brigham, Rogers, Langford, and Hock were interested in the Reorganization. They owned—or in Rogers’s case, his affiliate Sealy & Smith owned—Atlas Operating units prior to the Reorganization. They each received material benefits from the Reorganization in the form of significant tax savings. As a result, none of these directors are capable of impartially assessing a litigation demand.

114. Moreover, and as set forth in more detail above, Burleson, Mills, and Voyles lacked independence from Brigham and other interested parties.

115. The majority of Burleson’s income appears to be from her service on Brigham-related boards, and her husband is employed by Atlas. Burleson cannot independently consider a demand to bring this Action.

116. Mills’s work and employment has been supported by numerous material donations from Brigham. Mills cannot independently consider a demand to bring this Action.

117. Voyles has a close personal friendship with Brigham. The two are members of an exclusive Montana golf club and are neighbors. Brigham even

purchased Voyles's former house in Montana. Voyles cannot independently consider a demand to bring this Action.

118. Therefore, at least seven of the Company's eight directors cannot impartially or independently consider a demand and demand is excused as futile.

COUNT I

Direct and Derivative Claim for Breach of Fiduciary Duty Against the Controller Defendants

119. Plaintiff repeats and realleges each and every allegation above as if set forth in full herein.

120. As discussed herein, at the time of the Reorganization, the Controller Defendants were the controlling stockholders of Atlas.

121. As controlling stockholders, the Controller Defendants owed and owe the Company and the Class the utmost fiduciary duties of due care and loyalty.

122. The Controller Defendants also beneficially owned Atlas Operating units and benefited from the Reorganization and approved the Reorganization by written consent.

123. By reason of the foregoing, the Controller Defendants breached their fiduciary duties by, among other things, approving the Reorganization that: (i) provides themselves with unique non-ratable tax benefits for free; (ii) directly

harmed the Class A stockholders through their forced receipt of unfair merger consideration; and (iii) harmed the Company by depriving it of expected tax savings and causing it to incur significant expenses in connection with the Reorganization.

124. As a result of the foregoing, Atlas, Plaintiff, and the Class have been harmed.

COUNT II

Direct and Derivative Claim for Breach of Fiduciary Duty Against the Director Defendants

125. Plaintiff repeats and realleges each and every allegation above as if set forth in full herein.

126. The Director Defendants, as Atlas directors and officers, owed and owe the Company and the Class the utmost fiduciary duties of due care and loyalty. Under Delaware law, the Director Defendants must, but cannot, show that the Reorganization is entirely fair to Atlas and its public stockholders.

127. Each of the Director Defendants owned Atlas Operating units and personally benefited from the Reorganization.

128. By reason of the foregoing, the Director Defendants breached their fiduciary duties by, among other things, approving the Reorganization that: (i) provides themselves with unique non-ratable tax benefits for free; (ii) directly

harmed the Class A stockholders through their forced receipt of unfair merger consideration; and (iii) harmed the Company by depriving it of expected tax savings and causing it to incur significant expenses in connection with the Reorganization.

129. As a result of the foregoing, Atlas, Plaintiff, and the Class have been harmed.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff demands judgment and relief in its favor and in favor of Atlas and the Class, and against Defendants, as follows:

- a. Declaring that this Action is properly maintainable as a class action;
- b. Finding that demand is excused as futile;
- c. Finding the Controller Defendants liable for breaching their fiduciary duties;
- d. Finding the Director Defendants liable for breaching their fiduciary duties;
- e. Certifying the proposed Class;
- f. Awarding Plaintiff and the other members of the Class damages in an amount that may be proven at trial, together with pre-judgment and post-judgment interest;

g. Awarding Atlas damages in an amount to be proven at trial, together with pre-judgment and post-judgment interest;

h. Awarding Plaintiff reasonable attorneys' fees and experts' witness fees and other costs;

i. Awarding Plaintiff and the Class such other relief as this Court deems just and equitable.

Dated: June 27, 2024

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