STATE OF MAINE

SUPREME JUDICIAL COURT

SITTING AS THE LAW COURT

LAW DOCKET NO. BCD-25-301

GENERAL HOLDINGS, INC.
Plaintiff – Appellee

v.

PAMELA GLEICHMAN AND MARY WOLFSON, TRUSTEE OF THE HILLMAN MATHER ADAMS TRUST AND THE HILLMAN NORBERG TRUST

Defendants– Appellants

ON APPEAL FROM JUDGMENT OF THE BUSINESS AND CONSUMER COURT

APPELLANTS' BRIEF

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TABLE OF CONTENTS

Page

TABLE OF AUTHORITIES 5

I. INTRODUCTION 8

II. STATEMENT OF THE FACTS AND PROCEDURAL HISTORY…....9

A. The Limited Partners – Twenty-Seven in Maine, Twenty-one in Pennsylvania……9

B. Non-Compliance with Partner Removal Provisions ……..……...10

C. Non-Compliance with Partner Substitution Provisions When Scarcelli Took Over Control of the Corporate General Partner ……..…11

D. The 2020 Settlement Agreement Did not Contemplate Gleichman Having to Disclaim Her Partnership Management Interests and Suffer Tax Recapture ……...12

E. Scarcelli Issues Tax Reports Imposing Very Large Taxes on Gleichman Based on Dissociation; Gleichman Immediately Challenges ……..14

F. Scarcelli Attempts to Pressure Her Mother to Agree to Dissociate...15

G. Scarcelli Claims That Her Entity Has Become the Sole GP; Immediately Challenged By Gleichman and HMAN Trust ……16

H. Gleichman's Details Facts and Law Refuting Scarcelli Claim of Dissociation ……..……17

I. Scarcelli Invokes New Theory of Dissociation – Invoking Federal Regulation ……18

J. Erroneous Contention that the Investment Downpayment of The Two Partners……20

K. Motion to Dismiss For Failing to Join Limited Partners……21

L. Trial and Appeal…….……..22

III. STATEMENT OF THE ISSUES PRESENTED FOR REVIEW…….23

A. <u>WHETHER THE BUSINESS COURT ERRED IN DECLARING THAT GLEICHMAN HAD BEEN REMOVED AS A GENERAL PARTNER</u>

B. <u>WHETHER THE BUSINESS COURT ERRED IN DECLARING THAT GLEICHMAN HAD BEEN REMOVED AS A LIMITED PARTNER</u>

IV. SUMMARY OF ARGUMENT …….24

V. ARGUMENT 27

A. <u>THE BUSINESS COURT ERRED IN DECLARING THAT GLEICHMAN HAD BEEN REMOVED AS A GENERAL PARTNER</u>……..…..…..27

1. Standard of Review……..…27

2. Maine Law of General Partner Dissociation…….28

3. No Agreed Event Occurred Causing Automatic Dissociation.…32

4. RD Regulation Was Not Violated and In any Event Does Not Preempt Maine Law Governing the Removal of General Partners ……..……...…..34

B. <u>THE BUSINESS COURT ERRED IN DECLARING THAT GLEICHMAN HAD BEEN REMOVED AS A LIMITED PARTNER</u>…….…42

1. Law of Dissociating Limited Partners……43

2. No Basis For Automatic Dissociating Gleichman as A Limited Partner……..……..…45

VI. CONCLUSION 47

CERTIFICATE OF SERVICE 48

TABLE OF AUTHORITIES

CASES **Pages**

Calcutt v. FDIC, 598 U.S. 623 (2023) ……....37

Civil Service Comm'n v. Letter Carriers, 413 U. S. 548, 93 S. Ct. 2880, 37 L. Ed. 2d 796 (1973)……..……37

Clark v. Martinez, 543 U. S. 371 125 S. Ct. 716, 160 L. Ed. 2d 734 (2005)..……37

Cleveland Board of Education v. Loudermill, 470 U.S. 532 (1985)……..37

Cobb v. Bd. of Counseling Prof'ls Licensure, 2006 ME 48, 896 A.2d 271……28

Collins v. Kentucky, 234 U. S. 634, 34 S. Ct. 924, 58 L. Ed. 1510 (1914)……...37

Connally v. General Constr. Co., 269 U. S. 385, 46 S. Ct. 126, (1926) ……37

Estate of Joyce v. Commercial Welding Co., 2012 ME 62, 55 A.3d 411……...27

Estate of Nickerson, 2014 ME 19, 86 A.3d 658…….…….…….28

Gen. Holdings, Inc. v. Eight Penn Partners, L.P., 2025 ME 20, 331 A.3d 445…11, 27, 29

Green v. Bellerive Condominiums Ltd. Partnership, 135 Md App 563, 763 A.2d 252, (2000) ……..……41

Hooper v. California, 155 U. S. 648, 15 S. Ct. 207, 39 L. Ed. 297 (1895)…….……37

Huff v. Vilsack, 195 F. Supp. 3d 343 (D.D.C. 2016)……..35

In re Hafen, 625 B.R. 529 (Bankr. D. Utah 2020) …….22

Law v. Zemp, 408 P.2d 1045 (Ore. 2018) ……..…41

Madison Hills Ltd. Partnership II v. Madison Hills, Inc., 35 Conn App 81, 644 A.2d 363……41

Torres v. Dep't of Corr., 2016 ME 122, 145 A.3d 1040…….……....….27

Testa's, Inc. v. Coopersmith, 2014 ME 137, 105 A.3d 1037…….…..27

United States v. Davis, 588 U.S. 445 (2019)……..38

Wells Fargo Bank v. Continuous Control Solutions, 821 NW 2d 777, 2012 Iowa App. LEXIS 628 (Iowa Ct App 2012)…….41

Wolfson v. Blair House Associates Limited Partnership, No. BCD-CIV-2021-00052 (Me. B.C.D. Feb. 13, 2023)……...22, 33

MAINE STATUTES

31 M.R.S. § 1302(21) …..…….…….……45

31 M.R.S. § 1302(22) …..…….…….……40

31 M.R.S. § 1371 ……..……43, 44

31 M.R.S. § 1372 ……..……43, 44

31 M.R.S. § 1373(2) …..…..…..…….29, 30, 31, 32

31 M.R.S.§ 1382 …… 39, 40, 45

31 M.R.S. § 1383…….39

31 M.R.S. §1391(4)……....46

31 M.R.S. §1451……..32

31 M.R.S. §1453…….……29, 30, 32, 45

OTHER STATUTES AND RULES

805 ILCS 215/702(f) ……..….46

7 C.F.R. section 3560.55(d) and (e) ……....35

APPELLANTS' BRIEF

I. INTRODUCTION

Defendants Pamela Gleichman ("Gleichman") and Mary Wolfson, Trustee of the Hillman Mather Adams Norberg Trust and Hillman Norberg Trust, ("Wolfson") have appealed from a judgment of the Business and Consumer Court (Duddy, J.) (the "Business Court") declaring that the general partner in forty-eight Maine limited partnerships has been dissociated from her position as a general partner in each of those entities as a result of having her economic interests in those partnerships having been foreclosed upon by her daughter's entity and the family trust in which her daughter is a one-third beneficiary. In addition, Pamela Gleichman has appealed from the decision on her counterclaim seeking a declaration that she was not dissociated as a limited partner from nine of the Maine limited partnerships.

The Business Court erred in construing the language of the partnership agreements, Maine's limited partnership statutes and a federal regulation governing downpayments on projects financed by the Farmer's Home Administration (now named Rural Development. In its essence, the Business Court's decision added to each of the numerous partnership agreement and to Maine's dissociation statutes a ground for dissociating a partner based upon a federal regulation governing project downpayments. The federal regulation relied upon was never violated, and by its

plain language applies only to the aggregate downpayment the all of the general partners, but was instead applied as if it set a minimum threshold as to each individual partner.

II. STATEMENT OF FACTS AND PROCEDURAL HISTORY

On July 21, 2022 General Holdings, Inc. ("General Holdings" or "Scarcelli") is now owned by Gleichman's daughter's entity (Preservation Holdings, LLC) and brought this lawsuit seeking a declaration that Gleichman had been lawfully dissociated as a general partner from twenty-six limited partnerships involving housing projects in Maine as well as the from twenty-one limited partnerships operating housing projects in Pennsylvania. See Complaint paragraphs 1-2 and Exhibit A to the Complaint. Those two lists of the partnerships were broken down so as to compile the Maine projects in one exhibit Defendants' Exhibit 1 and the Pennsylvania in a separate exhibit. Defendants' Exhibit 2. Plaintiff offered an exhibit that added one more Maine project. See Plaintiff's Exhibit 1 and Order Following Bench Trial at footnotes 1 and 19.(App. 8 and 21).

A. The Limited Partners – Twenty-Seven in Maine, Twenty-one in Pennsylvania

Each of the forty-eight partnership entities has one or more limited partners who were never joined to this case. Many of these unjoined partners were listed by General Holdings in the attachments to the Complaint. See Defendant's Exhibit 1 (identifying the limited partners in the twenty-six Maine partnerships; including

Pam Gleichman identified as a limited partner in Pheasant Run partnership).[1] See also Defendants' Exhibits 2 (identifying the original general partners in the twenty-one Pennsylvania partnerships, along with the corresponding limited partners.[2]

None of these many limited partners consented to any change in general partners or to the dissociating of Gleichman. Nor were any (aside from Gleichman and Mary Wolfson, as trustee of the HMAN Trust[3]) joined to the case.

B. **Non-Compliance with Partner Removal Provisions**

Neither Scarcelli nor anyone else provided Gleichman any form of process before Scarcelli declared her removed as a partner and announced that to RD as a fait accompli. There was never a meeting of the partners of any of the forty-seven

[1] Rural Housing Credit Associates, II is identified as the limited partner in another (McCulley Commons). As for seven of the Maine projects (listed as numbers 19 through 25), General Holdings stated that there are "Various Limited Partners" in each partnership. See Defendants' Exhibit 3. The identities of the limited partners in those seven partnerships can be gleaned from Plaintiff's Exhibits 1-A (Anson), 1-B (Dixfield), 1-C (Farmington Hills), and 1-E (Greenbriar).

[2] GN Holdings was listed as the limited partner in six of the partnerships. Exhibit 2 identified the National Tax Credit Fund 37 as a limited partner in three partnerships (numbers 7, 8 and 9) , USA Metropolitan Tax Credit Fund II as the limited partner in five partnerships (numbers 10 - 14); USA Metropolitan Tax Credit Fund as the limited partner in two partnerships (numbers 15 and 16); USA Institutional Tax Credit Fund as the limited partner in one partnership (number 17) and Hillman Mather Adams Norberg Trust (the HMAN Trust) as the limited partner in four (numbers 18 - 21).

[3] Mary Wolfson, as Trustee of the Hillman Mather Adams Norberg Trust is the limited partner in the following four entities – A) the Blair House Associates Limited Partnership, B) the South Bethlehem House Limited Partnership, C) the Brownsville House Limited Partnership, and D) the Tyrone House Associates Limited Partnership. See Complaint paragraphs 4 and Exhibit A to the Complaint.

partnerships for purposes of removing Gleichman. There never was any notice of any sort provided to Gleichman or to the limited partners proposing her removal or asserting any grounds to remove Gleichman as a partner. Gleichman was never given the opportunity to investigate and challenge her removal. No proceeding was ever held internally or before any government functionary to consider Gleichman's, Wolfson's or any other limited partner's opposition to the unilateral removal of Gleichman. There was never any regulation invoked by any person or government authority as a ground for Gleichman to lose her management rights – much less any due process hearing.

C. Non-Compliance with Partner Substitution Provisions When Scarcelli Took Over Control of the Corporate General Partner

Prior to declaring her mother to have been dissociated, Scarcelli had in 2014 used her wholly owned entity to purchase at an auction all shares of mother's Maine corporation, Gleichman & Co, Inc. Gleichman & Company was the corporate general partner in the all of the limited partnerships involved in this case. The corporation was re-named General Holdings, Inc. around the time that its stock was auctioned.[4] Despite the fact that each partnership agreement contained a

[4]The evidence involving that auction was presented to this Court in a related case decided earlier this year involving the rights of an entity that had purchased limited partner interests in four of the forty-eight partnerships. See Gen. Holdings, Inc. v. Eight Penn Partners, L.P., 2025 ME 20, ¶4, 331 A.3d 445. The evidence in that case was made part of the record in this case through deposition transcripts and through the trial transcripts. See Plaintiff's Exhibits 6 through 12. That evidence established that in March of 2013 an entity established by Scarcelli named Preservation Holdings, LLC purchased at an auction all of Gleichman's stock in Gleichman & Co., Inc.

prohibition against taking control of the corporate general partner without first obtaining the written consent of the individual general partner and the consent of the limited partners – that is, by Gleichman as well as the limited partners in each partnership, Scarcelli failed to obtain the consent of Gleichman or any of the limited partners to taking control over the general partner.

D. The 2020 Settlement Agreement Did not Contemplate Gleichman Having to Disclaim Her Partnership Management Interests and Suffer Tax Recapture

The evidence established that in 2008 Gleichman and Norberg gave Scarcelli control over the management company that managed the projects[5]. The evidence established that thereafter over the course of several years Scarcelli engaged in hostilely withholding and diverting funds owed to her mother in an attempt to wrest control from her mother of her mother's partnership interests.

In February of 2020 Scarcelli agreed to pay her mother and stepfather $3.95 million dollars in damages in settlement of the claims that Scarcelli had breached fiduciary duties owing to her mother.[6] Scarcelli agreed to that payment at a judicial

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[5] In October of 2008, Gleichman agreed that her daughter Rosa could manage the apartments complexes through her role in the entity Stanford Management. See Plaintiff's Exhibit 15.

[6] The trial testimony established that Scarcelli purchased 100% of the stock of her mother's company for $10,000 at an auction at the Norman Hanson law firm and never obtained consent to that take-over from any limited partner or from her mother as the "other GP" in each project. See Plaintiff's Exhibit 11 - Eight Penn Trial Transcript Vol 1 Scarcelli testimony at 76:4 to 77:25 and

settlement conference held just before trial was to commence in case #BCD 17- 11.[7] The agreement provided for Scarcelli and her entities to pay Gleichman and Norberg $1 million by March 31, 2020 - along with a payment of $200,000 on March 31, 2021 plus five annual payments of $125,000 and ten annual payments of $150,000 per year. See Plaintiff's Exhibit 9.[8] Thus the total Scarcelli agreed to pay was $3,950,000 – that is, $1.2 million plus $625,000 (five payments) plus $1.5 million (i.e. ten payments of $150,000 each).

Apart from agreeing to pay approximately four million dollars, Scarcelli and Stanford also agreed to cease litigating with Gleichman and Norberg – designating only one case that was to continue – that is, the fraudulent transfer case by the Promenade Trust involving a project in Bar Harbor and two projects in Brunswick.

80:1-19. The testimony also established that Scarcelli obtained the judgment which she utilized as the basis for her auction by depriving her mother of substantial funds which Gleichman was owed which would have satisfied the debt that was owing to the creditor. See Plaintiff's Exhibit 11 - Eight Penn Trial Transcript Vol 1 Gleichman testimony 225:1 to 227:14 and 237:3 to 238:11 and Vol 2 at 7:9 to 10:1 and 14:1 to 15:9.

[7] Among the breaches resolved through that settlement were Scarcelli's breaches in A) cutting off her mother from desperately needed funds she was entitled to so as to leave them without funds while she and Norberg were in Morrocco and B) in withholding vitally needed funds on other occasions in order to prevent them from retaining counsel to challenge Scarcelli's breaches and abuses. Scarcelli had been given control over the management companies for the projects in 2008, and thereafter over the course of years Scarcelli engaged in depriving her mother of funds owing her from her mother's partnerships.

[8] Scarcelli also agreed at that time to make annual payments to Hillman Norberg and Luigi Scarcelli of at least $90,000 each per year for a period of 15 years ($2.7 million) starting with calendar year starting January 1, 2020.

The terms of the Settlement Agreement contemplated no future lawsuits initiated either directly or indirectly by any of the Litigating Parties." See Settlement Agreement ¶ 12 (Covenant Not to Sue). There was no exception so as to allow any action by Scarcelli so as to declare her mother to have no management rights in her forty-eight projects. The settlement agreement did not provide for Gleichman to resign as a general partner from any of the partnerships. Nor did the agreement contain any provision suggesting that Gleichman would be dissociated or that she would agree to disclaim her management interests as a general partner in any of the forty-eight projects. Instead, an arrangement was worked out (and entered into the settlement agreement) under which Gleichman and Norberg agreed to not interfere with the management of any of the projects.[9]

E. Scarcelli Issues Tax Reports Imposing Very Large Taxes on Gleichman Based on Dissociation; Gleichman Immediately Challenges

Within six months after the settlement - on September 3, 2020 - Scarcelli's accountant issued K-1's to Gleichman based upon an assumption that she had lost all of her management rights. Gleichman immediately contacted the accountant and challenged the issuance of the K-1's which had been sent to an erroneous address in Chicago. See Defendants' Exhibit 10. Scarcelli wrote to her accountant that she

[9] In contrast to this treatment of her interests as a partner, the settlement agreement did require that Gleichman disclaim any ownership interests in either of the apartment management/maintenance entities - Stanford Management, LLC and Acadia Maintenance, LLC.

would take care of the matter – but never responded to Gleichman. See Defendants' Exhibit 10.

Gleichman testified to the very large tax bill she is now facing if the K-1's unilaterally issued by Scarcelli are not reversed. A dissociation from each of these partnerships will have severe consequence on Gleichman who will be required to "recapture" (and pay taxes on) earlier deductions. Gleichman has retained tax accountants to address the problem and has been fending off the huge tax consequence for years. She testified to the severe adverse tax consequences if she is validly dissociated and to her regularly keeping tax authorities abreast of the status of the present lawsuit directed at clarifying that she has not been validly dissociated.[10]

F. Scarcelli Attempts to Pressure Her Mother to Agree to Dissociation

Three months after Gleichman challenged the issuance of the K-1's (that is, on December 1, 2020) Scarcelli essentially acknowledged that her mother had not been dissociated – instead, proposing to her mother that she "disavow[] any ownership in any of the partnerships listed in the 2020 settlement agreement". See Defendants' Exhibit 11. See also Defendants' Exhibit 32 (Scarcelli Deposition) at 79:22 – 80:5. In that December "business forecast" written by Scarcelli (with two

[10] Gleichman testified that she has been regularly reporting to Maine Revenue Service tax authorities as to the status of these proceedings.

related follow-ups on December 14th and March 1, 2021 – deposition Ex. 15) Scarcelli threatened to "wind down" Stanford Management in the second quarter of 2021 or transfer the management contracts to an entity controlled by Scarcelli, also suggesting that she might "sell General Holdings" as well unless her demands were met. See Defendants' Exhibits 11, 13 and Defendants' Exhibit 32 (Scarcelli Deposition) at 51:21-53:1 and 79:22 – 80:5.

G. Scarcelli Claims That Her Entity Has Become the Sole GP; Immediately Challenged By Gleichman and HMAN Trust

In December of 2020 Attorney Ed MacColl (on behalf of the HMAN Trust) challenged a claim made by Scarcelli's counsel that Scarcelli's entity was the "sole general partner" of the Blair House project that had burned down. See Defendants' Exhibit 15. Gleichman's counsel had by that time made clear to Scarcelli's counsel that Gleichman intended to remain as a general partner in all of the partnerships, confirming and repeating that in a March 3, 2021 email to Attorney Poliquin. See Defendants' Exhibit 16.[11]

Attorney MacColl writing for limited partner HMAN Trust reiterated to Scarcelli's counsel on March 24, 2021 that Scarcelli could not remove Gleichman as a General partner – writing that "the partnership agreement expressly prohibits

[11] The latter email also memorialized the fact that Scarcelli's counsel - Attorney Geismar - on December 3, 2021 had confirmed that Gleichman was asserting that she remained as a general partner. See Defendants' Exhibit 16.

General Holdings and therefore Rosa from removing the other GP and the partnership agreement require[s] that the LP [that is, the HMAN Trust] be involved in (and indeed control) any process to remove a GP".

H. Gleichman's Details Facts and Law Refuting Scarcelli Claim of Dissociation

On March 10, 2021 Scarcelli's counsel asked for a conference before the Business Court seeking to place further pressure on Gleichman to resign as a partner. Counsel wrote to the Business Court arguing that Gleichman was breaching her non-interference agreement (incorporated in the settlement agreement) by, inter alia, refusing to agree that she had been dissociated. In response, Gleichman's counsel pointed out that:

> (1) [Gleichman] has no obligation to agree that she has been "dissociated" in some way of her management rights at Blair House or elsewhere. Such an action is not only not required by the settlement agreement, but would expose her to substantial risk of very serious tax consequences. Attorney MacColl recently called out Attorney Geismar on the games being played in Scarcelli's…contrivances aimed at dishonoring her financial commitments – pleading for "some candor" about the issues. See Exhibit L…..
>
> (2) Gleichman never withdrew from the partnership nor was dissociated under any the provisions of Maine law. Her managerial rights are not taken away (or dissolved) simply because her economic interests have been foreclosed upon.
>
> (3) The only section of Maine's dissociation statute that Scarcelli has claimed supports her theory that Gleichman has been "dissociated" from Blair House or any other partnerships is 31 M.R.S.A. §1373(2), and yet that section provides that a dissociation can occur only if the terms of the partnership agreement so provide – that is, if the agreement sets forth

certain conditions that amount to an automatic dissociation. The Blair House agreement contains no such language….

(4) The provisions dealing with changing general partners (i.e. sections 9.1 and 9.5) plainly do not allow for (or suggest in any way) automatic dissociation. The plain meaning of these provisions precludes any such taking over of (or loss of) the managerial rights of a GP. Instead, the agreement provides three methods of changing partners (i.e. removal and withdraw and transfers); these are three sub-sections within the Article dealing with "CHANGES AMONG GENERAL PARTNERS" - i.e. Article IX. …. So, there is simply no merit to Scarcelli's contention that Gleichman has been dissociated from the Blair House partnership – and she should certainly not be allowed to strongarm such a withdrawal and cause adverse consequences to Gleichman. In any event, the Blair House agreement does not allow for changes in who the GP is without the approval of the LP (i.e. Hancock). …

See Defendant's Exhibit 8.

I. Scarcelli Invokes New Theory of Dissociation – Invoking Federal Regulation

Despite the March, 2021 emails and the correspondence to the Business Court, Scarcelli continued two months later – in May of 2021 – feigning ignorance as to whether Gleichman was asserting that she was a general partner. Attorney Geismar this time came up for the first time with an argument that a certain federal regulation had been violated when Gleichman's economic interests were foreclosed upon and that the alleged "violation" had resulted in Gleichman's automatic dissociation. See Defendants' Exhibit 21.

In response, on May 19, 2021 Gleichman's counsel pointed out that none of the provisions of any partnership agreement provided for her removal as a result of

the foreclosure of charging orders. See Defendants' Exhibit 22. A detailed analysis of the issue was again provided to Scarcelli's counsel – pointing out the flaws in the new "Regulation violation" theory – writing as follow:

> You and Jim Poliquin have written to me repeatedly claiming that there are provisions of the partnership agreements that provide for automatic dissociation once a creditor has foreclosed on the partner's economic interests, but none of the provisions that you have cited in fact provides for that. See your letter to me dated December 3, 2020 and your email dated April 15, 2021 (correcting your 12/2/20 letter to rely instead upon section 9.6 of the Blair House LP agreement). Your arguments seem to be at odds with basic principles of Maine law governing the free transferability of the economic interests in limited partnerships. As you know, Maine law provides explicitly that the transfer of the economic interests in a Maine limited partnership does not effect any automatic dissociation. See 31 M.R.S. 1382(1)(B)(a transfer of a partner's entire transferable interest "[d]oes not by itself cause the partner's dissociation…").

See Defendants' Exhibit 22.[12]

[12] The letter further stated :

> In your email from last week, you appear to have changed your course and decided to rely instead upon language in some inapplicable Rural Development's regulations. You do not explain how the language used in the regulations could be construed to automatically remove or dissociate a General Partner. The RD regulation that you are now relying upon (7 C.F.R. section 3560.55(d)) does not purport to affect in any way the terms of any partnership agreements or to activate any automatic dissociation provision under any of the "withdrawal provisions" or any of the sections governing "Changes Among General Partners" – such as those which are contained in Article IX of the Blair House agreement? See discussion in my letter to Judge Duddy at pages 4 and 5. The regulation you cite deals solely with the application process for a limited partnership to become initially "eligible for Agency assistance". The application process was completed many years ago in respect to all of these projects, and therefore, the regulations that you rely upon have no bearing on anything at this point. Rules governing the initial application for assistance have absolutely nothing to do with dissociation and do not suggest in any way an intent to affect or alter in any way the governance provisions of the limited partnership agreements of entities which are already part of the program.

At that May 2021 correspondence Gleichman's counsel pointed out that dissociating Gleichman was not a concern that had been expressed by RD and that if it were ever raised by any official, it would be a concern of the partnership - not individual partners and that General Holdings would also be dissociated if the Scarcelli theory of dissociation were accepted.[13]

J. Erroneous Contention that the Investment Downpayment of The Two Partners

[13] The letter provided as follows:

> Even if there were a regulation requiring that the two GP's in projects always have at least a 5% combined economic interests in particular projects, that would be a matter of interest (and standing) only to RD – not General Holdings. I understand that Pam had an interest in Blair House (and other projects) of 99.99%, while General Holdings had merely a .01% interest. If Promenade Trust obtained all economic interests of both Gleichman and General Holdings, then neither GP could satisfy the hypothetical 5% requirement. Since General Holdings/Gleichman & Co. has never had anything close to a 5% economic interest in Blair or many other projects (instead having merely a .01% interest), how would that requirement be satisfied by deeming Gleichman to no longer be a GP? Any lawsuit seems to be not only without merit, but likely to open up other issues – and do so unnecessarily.
>
> Another concern is that Gleichman and Co's interests not only were subject to the same charging orders that were applied against Pam's economic interests, but that entity's controlling ownership changed from Pam to Rosa in 2014 in what Ed MacColl argues to you was an event of withdrawal by Gleichman & Co. See Blair House Limited Partnership Agreement, Article II – defining "Event of Withdrawal" as the transfer of a "controlling interest" in a corporate General Partner). Ed MacColl wrote to you about this on March 24, 2021, suggesting that, if you were correct that Ms. Gleichman's GP interests were terminated by an automatic event of withdrawal, General Holdings' status was likewise terminated. I understand that George Marcus made that same argument as to the transfer of the controlling interest to Laurie Warzinski on April 26, 2021.

See Defendant's Exhibit 22.

The undisputed evidence at trial was that the original five percent downpayment on each project (which in some cases consisted of Gleichman's contribution of the land to the projects) has been maintained in all projects up through the present. Scarcelli conceded that the general partners have maintained their 5% down payment in the value of the real estate involved in each project. The fact that a creditor – upon liquidating a project – may be entitled to the proceeds otherwise owing to a general partner is a matter wholly apart from the 5% downpayment requirement.

In addition, it was undisputed that the downpayment requirement is a requirement imposed jointly on the two general partners – not just on one or the other. If some refinancing had occurred so as to reduce the investment in a project below 5% (and none was) - that would have been a matter enforceable by Rural Development and would implicate both partners equally. But there never was any withdrawal of the required developer downpayment – and therefore was no enforcement action by any regulators at Rural Development. Scarcelli also conceded that no one from Rural Development ever claimed to her that the foreclosing upon Gleichman's economic interests somehow resulted in any partnership having breached any of the loan agreements with RD.

J. Motion to Dismiss For Failing to Join Limited Partners

On September 16, 2022 Gleichman filed a motion to dismiss this case based upon: A) General Holding's failure to join to the case as defendants the limited partners in the various partnerships as well as B) the failure to allege that Gleichman had been removed as a general partner in accordance with the removal provisions contained in the various partnership agreements.

On February 15, 2023 the Business Court denied the motion to dismiss. In that decision the Business Court wrote that just two days earlier it had decided in a related case involving the Blair House Associates partnership[14], that a general partner will not be dissociated unless the mechanisms for removal that are set forth in the partnership agreement are honored.[15] See Wolfson v. Blair House Associates Ltd. P'ship, No BCD-CIV-2021-00052, slip op. 3-4, 6-7 (Me. B.C.D. Feb. 13, 2023).[16] The Business Court wrote that it expected to construe identical language

[14] In BCD 21-52 Wolfson contended that the transfer of control over the entity Gleichman & Co. Inc. constituted an "event of withdrawal" – just as had been argued to Rural Development. See Plaintiff's Exhibits 19 and 24. An "Event of Withdrawal" is defined in Article II of the Blair and related limited partnership agreements, inter alia, as follows:

> (d) The sale, assignment, transfer or encumbrance of a "controlling interest" (meaning the power to direct the management and policies of such Person, directly or indirectly whether through the ownership of voting securities, by contract or otherwise) in a corporate General Partner or of a general partner interest in a General Partner which is a partnership.

[15] See also In re Hafen, 625 B.R. 529, 534 -538 (Bankr. D. Utah 2020) ("transfer restrictions on limited partnership interests and LLC membership Units…. do not allow for transfer of the "Partnership Interest" and "Member's Units" respectively without following processes outlined in the documents").

[16] The Business Court's conclusion in Wolfson v. Blair House Associates Limited Partnership, No. BCD-CIV-2021-00052, was as follows:

in this case (BCD 22-40) in the same manner as it had in that Blair House Associates case (BCD 21-52) – that is, that a removal would not be effective unless carried out in accordance with the removal procedures.

K. Trial and Appeal

After a trial held October 28, 2024 and post-trial briefing, the Business Court on June 10, 2025 entered judgment against Gleichman and Wolfson declaring that A) General Holdings had become "the sole general partner of the limited partnerships" and B) that Gleichman had been dissociated as a limited partner from nine of the limited partnerships. On June 25, 2025 Gleichman and Wolfson timely filed this appeal.

III. STATEMENT OF THE ISSUES FOR REVIEW

A. WHETHER THE BUSINESS COURT ERRED IN DECLARING THAT GLEICHMAN HAD BEEN REMOVED AS A GENERAL PARTNER

B. WHETHER THE BUSINESS COURT ERRED IN DECLARING THAT GLEICHMAN HAD BEEN REMOVED AS A LIMITED PARTNER

> The Court concludes that upon the occurrence of an Event of Withdrawal, Section 9.1(a) provides the exclusive mechanism for removing a general partner. That mechanism imposes specific procedural requirements, and removal is not effective until those requirements are fulfilled. In this case, those requirements have not been fulfilled.

Wolfson Decision at 6.

IV. SUMMARY OF ARGUMENT

The Business Court erroneously concluded that Maine's current dissociation statute did not apply to these partnerships and adopted a flawed position argued by General Holdings, Inc. ("General Holdings" or "Scarcelli") that a federal housing regulation having to do with the magnitude of the joint partnership investment in a Rural Development ("RD") financed housing project had the unintended consequence of depriving the founding partner in all of the projects of her management rights in each of her numerous Maine partnerships. The Business Court reached that conclusion despite the absence of any aspect of the federal regulation suggesting that it was intended to involve RD in disputes between partners or in dissociating partners and despite applicable Maine law precluding the taking of management rights when – as here – the taking of economic rights was the result of the foreclosing upon charging orders issued against the partner.

The federal regulation which was relied upon below as the ground for dissociating Gleichman not only has no applicability to determining who partner is under Maine law, but it was not even violated in any event. The regulation governs the required combined financial interest of all partners in an RD financed project; it does not make reference to interests that must be maintained by each individual partner. It instead is directed on maintaining consistency in who the partners are

from the outset – not in casually eliminating one or another. The partnerships are left to work out how the general partners divide among themselves the required financial interest. Gleichman and her wholly owned entity (the two partners in each project) did make the five percent contribution at the outset of all projects – and that minimum investment was always been maintained; in fact, it has grown. Rural Development never expressed any concern about the extent of Gleichman's interest – much less took any action to compel a larger partnership investment or to seek removal of Gleichman.

Rather than RD, it was only the partner General Holdings that invoked the five percent provision; and that was done to justify taking over sole management control of Gleichman's partnerships – not to comply with any order or federal regulation. The equitable owner of the interest in General Holdings (Scarcelli) is the only person or entity that has invoked the federal regulation; she stands to benefit - and become the sole general partner - by having her co-partner in all of these partnerships removed. Scarcelli's entity (Preservation Holdings) is the creditor that worked together with her trustee in a family trust of which she was a one-third beneficiary (the Promenade Trust) to commence proceedings in Illinois to take away Gleichman's economic interests in all the projects.

Preventing these sorts of hostile take-overs is the central goal of "pick your own partner" provisions that are effectuated in the very partnership agreement consent

provisions which are at the heart of this case. Those provisions require unanimity among partners when there is proposed to be a change in partners. Limited partners must give their consent; and even the partner being removed must give his or her consent. Gleichman of course did not consent, and none of the numerous limited partners in the various partnerships gave their consents.

Maine's dissociation statute details the grounds for removing general partners; and it does not contain a provision that a partner is dissociated when that partner loses his or her or its economic interests in a partnership; in fact, just to the contrary – addressing that issue and stating that partner consent is nevertheless required.

No provision in any of the forty-seven or forty-eight limited partnership agreements provides for the taking over of (or the elimination of) a partner's management interests upon the loss of a partner's economic rights in a project. The partnership agreements all contain conditions limiting the removals of partners by imposing procedural hurdles or by requiring unanimous partner consents or by requiring that the removed partner maintain a special status in the partnership even if removed as a general partner.

Likewise, there was no basis to remove Gleichman as a limited partner. While Maine's current statutes as to dissociating limited partners do not apply to older entities such as the nine involved in the Counterclaim, there was no provision

of law or the agreements requiring dissociating any limited partners. To the extent that the current law is applied by analogy (despite not being directly applicable), it would not call for or justify an automatic dissociation of Gleichman as a limited partner because the current law would require as a precondition to removal that Gleichman as a general partner give – and she was never asked and did not do so.

V. ARGUMENT

1. THE BUSINESS COURT ERRED IN DECLARING THAT GLEICHMAN HAD BEEN REMOVED AS A GENERAL PARTNER

1. Standard of Review

In cases such as this case involving the interpretation of statutes and the language of contracts, this Court's standard of review depends on whether the contract language at issue is ambiguous, a matter which the Court determines on a de novo basis. See also Testa's, Inc. v. Coopersmith, 2014 ME 137, ¶ 11, 105 A.3d 1037. Ambiguous contract language is reviewed for clear error by the fact finder while unambiguous language is construed de novo. Gen. Holdings, Inc. v. Eight Penn Partners, L.P., 2025 ME 20, ¶ 10, 331 A.3d 445. The Court reviews the construction of statutes or rules on a de novo basis, looking first to the plain meaning of the statute or rule and interpreting its language "to avoid absurd, illogical or inconsistent results" and giving meaning to all words and provisions. Estate of Joyce v. Commercial Welding Co., 2012 ME 62, P 12, 55 A.3d 411; Torres v. Dep't

of Corr., 2016 ME 122, ¶ 13, 145 A.3d 1040; Est. of Nickerson, 2014 ME 19, ¶¶ 12, 18-22, 86 A.3d 658; Cobb v. Bd. of Counseling Prof'ls Licensure, 2006 ME 48, P 11, 896 A.2d 271.

It is the Appellant's position that the relevant provisions involved in this case are not ambiguous; that the Business Court applied the wrong law and misconstrued it, and therefore that the standard of review is de novo.

2. Maine Law of General Partner Dissociation

All of the limited partnerships are organized under the laws of the State of Maine and therefore are governed by Maine law.[17]

The Business Court erroneously construed Maine's Limited Partnership statutes by concluding that the entire statute under which the Maine Legislature defined the grounds for dissociating general partners does not apply to these partnerships. See Order Entering Judgment, at footnotes 18, 20 and 24. (App. 21, 25 and 27). In truth, it is only two of the eleven subsections in the dissociation statute that do not apply to the partnerships involved in this case. The remaining nine disregarded subsections do apply and make it clear that Gleichman was not dissociated.

[17] Complicating this proposition is the fact that the Illinois judgment taking Gleichman's economic interests provided that the enforcement of the charging order would instead be governed by Illinois law. See November, 2016 Decision and Judgment of the Illinois Court, obtained by Scarcelli's entity Preservation Holdings, LLC and Promenade Trust, Illinois law. See Defendants' Exhibit 7 at 7-14.

31 M.R.S.A. § 1373 (and its nine subsections) set forth the circumstances under which a general partner may be "dissociated" from a Maine limited partnership. The statute was enacted in 2005 to become effective in 2008. There were just a few provisions which were not to apply to "existing limited partnerships" – such as all forty-eight partnerships involved in this case. See 31 M.R.S. section 1453. Those few provisions that were not to apply to existing partnerships were identified in subsection 3 of the "applicability" statute – i.e. in 31 M.R.S. section 1453(3). That subsection makes it clear that all but two of the eleven bases for dissociation were to be applicable in relation to existing limited partnerships. The only provisions that were not to be applied to "existing limited partnerships" (absent a vote to include them – which did not occur) were 1) the dissociation provision allowing "Expulsion by unanimous consent" (subsection 4) and 2) the dissociation provision captioned "Expulsion upon judicial determination" (subsection 5).[18]

[18] 31 M.R.S. section 1453(3) lists in subsections A through F six aspects of the 2005 legislation that applied to limited partnerships that were "formed before July 1, 2007. It identified just two of the grounds for dissociation that would not apply. See section 1453(3)(D) and 1453(3) (E). Section 1453(3)(D) rendered inapplicable subsection 4 – that is, "**4. Expulsion by unanimous consent".** Section 1453(3)(E) rendered inapplicable subsection 5 – that is, "**5. Expulsion upon judicial determination."** See 31 M.R.S section 1453(3)(D). All the remaining subsections of section 1373 were fully effective as to partnership regardless of whether they were formed before or after July 1, 2007.

Dicta from a footnote in this Court's decision earlier this year in Gen. Holdings, Inc. v. Eight Penn Partners, L.P., 2025 ME 20, fn. 3, 331 A.3d 445, should be clarified so as to make clear that the applicability sections of the Uniform Limited Partnership Act provide for many provisions to apply to older partnership agreements. In fact, for purposes of future litigation alone (aside from this case), the erroneous suggestion that the current law has no applicability to older limited partnerships should be corrected at this point such as short period after the decision was issued; it

Therefore, under Maine law a general partner in one of these partnerships can be dissociated only in one of the nine circumstances specified in section 1373 (after eliminating the two inapplicable subsections). Those circumstances include such matters as: A) voluntary withdrawals, B) bankruptcy, C) death, and D) the occurrence of an event causing a person's dissociation under the terms of a partnership agreement or a person's "expulsion" under the terms of a partnership agreement. These nine circumstances are very clearly and precisely laid out in the statute and are not set forth as being merely suggestive of the types of situations in which a partner could be dissociated.[19] In applying and construing the Uniform Limited

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should be clarified so that the actual applicability sections of the Act as enacted are honored. Section 1453(3) sets forth rules that mostly do apply – and details only certain aspects that do not.

[19] Section 1373 provides as follows:

§1373. Dissociation as general partner

A person is dissociated from a limited partnership as a general partner upon the occurrence of any of the following events:

1. Notice of express will to withdraw. The limited partnership's having notice of the person's express will to withdraw as a general partner or on a later date specified by the person;

2. Event in partnership agreement. An event agreed to in the partnership agreement as causing the person's dissociation as a general partner;

3. Expulsion pursuant to partnership agreement. The person's expulsion as a general partner pursuant to the partnership agreement;

4. Expulsion by unanimous consent. The person's expulsion as a general partner by the unanimous consent of the other partners if:

A. It is unlawful to carry on the limited partnership's activities with the person as a general partner;

B. There has been a transfer of all or substantially all of the person's transferable interest in the limited partnership, other than a transfer for security purposes, or a court order charging the person's interest, that has not been foreclosed;

C. The person is a corporation and, within 90 days after the limited partnership notifies the person that it will be expelled as a general partner because it has filed a certificate of dissolution or the equivalent, its charter has been revoked or its right

to conduct business has been suspended by the jurisdiction of its incorporation, there is no revocation of the certificate of dissolution or no reinstatement of its charter or its right to conduct business; or

D. The person is a limited liability company or partnership that has been dissolved and whose business is being wound up; …

5. Expulsion upon judicial determination. On application by the limited partnership, the person's expulsion as a general partner by judicial determination because:

A. The person engaged in wrongful conduct that adversely and materially affected the limited partnership's activities;

B. The person willfully or persistently committed a material breach of the partnership agreement or of a duty owed to the partnership or the other partners under section 1358; or

C. The person engaged in conduct relating to the limited partnership's activities which makes it not reasonably practicable to carry on the activities of the limited partnership with the person as a general partner;

6. Bankruptcy; execution of assignment; appointment of trustee, receiver or liquidator. The person's:

A. Becoming a debtor in bankruptcy;

B. Execution of an assignment for the benefit of creditors;

C. Seeking, consenting to or acquiescing in the appointment of a trustee, receiver or liquidator of the person or of all or substantially all of the person's property; or

D. Failure, within 90 days after the appointment, to have vacated or stayed the appointment of a trustee, receiver or liquidator of the general partner or of all or substantially all of the person's property obtained without the person's consent or acquiescence, or failing within 90 days after the expiration of a stay to have the appointment vacated;

7. Death; appointment of guardian or conservator; judicial determination. In the case of a person who is an individual:

A. The person's death;

B. The appointment of a guardian or general conservator for the person; or

C. A judicial determination that the person has otherwise become incapable of performing the person's duties as a general partner under the partnership agreement;

8. Distribution of trust's interest. In the case of a person that is a trust or is acting as a general partner by virtue of being a trustee of a trust, distribution of the trust's entire transferable interest in the limited partnership, but not merely by reason of the substitution of a successor trustee;

9. Distribution of estate's interest. In the case of a person that is an estate or is acting as a general partner by virtue of being a personal representative of an estate, distribution of the estate's entire transferable interest in the limited partnership, but not merely by reason of the substitution of a successor personal representative;

10. Termination of general partner. Termination of a general partner that is not an individual, partnership, limited liability company, corporation, trust or estate; or

11. Conversion or merger. The limited partnership's participation in a conversion or merger under subchapter 11, if the limited partnership:

Partnership Act, "consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it." 31 M.R.S. section 1451.

3. **No Agreed Event Occurred Causing Automatic Dissociation**

The only subsection that General Holdings invoked in this case is subsection (2) of section 1373. Under that provision General Holdings was required to prove that Gleichman's loss of her economic interests was "[a]n event agreed to in the partnership agreement as causing the person's dissociation as a general partner."

The plain meaning of the language used in 31 M.R.S.A. §1373(2) requires the occurrence of a specific, identifiable "agreed event" which a partnership agreement states would result in the immediate and automatic loss of management interests – i.e. dissociation.

But there was no such specified dissociation event identified in any of the partnership agreements. In fact, none of the partnership agreements sets forth any events that result in an automatic dissociating a partner. Even if one expands the "dissociation" language to include similar terminology, none of the agreements states that a partner may be considered to have been expelled or removed or terminated or to have withdrawn if he or she loses his or her economic interests.

A. Is not the converted or surviving entity; or
B. Is the converted or surviving entity but, as a result of the conversion or merger, the person ceases to be a general partner.

The evidence did not establish this ground nor any the other grounds for dissociating Ms. Gleichman as a general partner. No attempt was made to remove Gleichman by use of the procedural provisions for removal contained within many of the 48 Limited Partnership agreements. The general partners did not concur on her removal. Nor did any of the many limited partners; in fact, the limited partners, whose rights are implicated by the effort to change the partner they went into business with, were not even consulted or joined to the case.

The procedural hurdles to removal were recently highlighted in a related case. The Business Court in 2023 issued a decision emphasizing the process that is necessary before removing a partner. The related case involved the fire insurance proceeds arising from a fire at one of the forty-eight projects. The Business Court concluded that - even if a general partner had committed an event of withdrawal - that fact does not effect an automatic dissociation – instead, it is only a preliminary step before any removal of a partner can occur. See Wolfson v. Blair House Associates Ltd. P'ship, No BCD-CIV-2021-00052, slip op. 3-4, 6-7 (Me. B.C.D. Feb. 13, 2023).[20] That legal authority and its reasoning applies here as well and would preclude the declaration of dissociation which was issued.

[20] In BCD 21-52 the Business Court construed the term "Event of Withdrawal" as defined in Article II of the Blair agreement and concluded that there was no automatic dissociation; instead:

> upon the occurrence of an Event of Withdrawal, Section 9.1(a) provides the exclusive mechanism for removing a general partner. That mechanism imposes specific procedural

At least as regards many of the projects which have these procedural protections, partner removal can only occur if the additional actions are carried out within each partnership which actions include obtaining the concurrence of all partners. The procedures for removal set out in the "Columbia" projects (and many others) must first be invoked and complied with before any dissociation can occur.[21] The admitted non-compliance with the removal provisions in itself should have been fatal to Scarcelli's dissociation theory as to at least all four Columbia Housing projects – and in fact as to many other projects with similar procedural safeguards.

4. The RD Regulation Was Not Violated and In any Event Does Not Preempt Maine Law Governing the Removal of General Partners

The Business Court did not rely on any specifically identified dissociation event; instead, it relied upon a federal regulation which the Court considered to be impliedly part of the dissociation provisions[22] so as to automatically dissociate a general partner if that partner failed to maintain a level of economic interest

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> requirements, and removal is not effective until those requirements are fulfilled. In this case, those requirements have not been fulfilled.

Id. at 6.

[21] Since the Blair House agreement language is identical to that contained in three other partnerships (the projects which were originally known as "the Columbia Housing" projects and which later became known as "the HMAN projects").

[22] Implied provisions cannot be recognized as grounds for automatic dissociation; rather the ULPA contemplates only express provisions – i.e. only events identified in the agreement as causing dissociation. Events are not "identified" as ground to dissociate if they have to be implied.

sufficient (when added together with the interests of the other partner) to reach the five (5) percent threshold partnership commitment. See Order Entering Judgment at 2, 15-19 (App. 9, 22-25).

The fundamental flaw with that conclusion is that the RD regulation says nothing about dissociation, but rather is a provision that the partnerships agreed to in respect to the financial commitment that the two general partners jointly must make to each project. The regulation was construed in 2016 by now U.S. Supreme Court Justice Ketanji Brown Jackson as a provision setting out the initial investment required from applicants in order to be eligible for assistance.[23]

The plain language of the regulation speaks to partnership commitments – and says nothing about automatically removing or dissociating any general partner who has no economic interests; in fact, it strongly suggests just the opposite. The RD regulation (7 C.F.R. section 3560.55(d) and (e)) states that "the Partnership" shall not change its membership without "prior consent" of the Government. Under the Business Court's construction this provision would be violated as soon as any

[23] The RD Regulation addresses who may be initially "eligible for Agency assistance". In her 2016 decision Justice Jackson construed this regulation as applying only to the initial application. See Huff v. Vilsack, 195 F. Supp. 3d 343, 355 (D.D.C. 2016)(lawsuit brought in connection with an application by business entities that owned multifamily housing projects in Alabama; Judge Jackson agreed with a hearing officer's conclusion that the regulation only applied to initial "applicants" ; "eligibility requirements found in 7 C.F.R. § 3560.55, … apply only to applicants").

creditor foreclosed upon a charging order since the partner would be automatically eliminated as a partner (without any consent being obtained from the Government).

The Business Court's interpretation is also at odds with the plain language used in the RD regulation in regard to the nature of "financial interest" that "the Partnership" agrees to maintain. The language used is clearly addressed to the financial interest that the general partners must maintain in the "aggregate." The regulation states that the Partnership shall not permit "the general partner(s) to maintain less than an aggregate of 5 percent financial interest in the organization". See Order Entering Judgment at 2 of 15 (App. 9). The language used (i.e. in referring to "the aggregate") cannot mean anything other than the requirement imposed upon the Partnership sets a threshold to be applied to the two general partners jointly.

What seems most reasonable is that the remedy for a violation of the Partnership's commitment would not be an implied and immediate dissociation of one or more partners – but rather some administrative proceeding against the Partnership itself commenced by RD to look into the best financing of the project and – if called for[24] – to declare a default of the loan commitments which were made

[24] The regulators – if interested - would see that no outsiders were involved in the projects (just Gleichman and her family) and that all required downpayment equity remained in the projects. To the extent that the Regulation is designed to keep approved management intact and to assure that the initial five percent downpayment remained in the project, the record was clear that the total investment of at least five percent was maintained in each project at all times and was not affected by the foreclosure on Gleichman's interests in any way; the downpayment could only be taken out of the property by a refinancing which did not occur. Scarcelli conceded that fact at

by the Partnership. The Regulation in no way implies that it should be enforced by imposing a direct and automatic remedy directly against one or more of the partners.

The Regulation should be construed in accordance with its plain meaning which does not suggest automatic dissociation – and also in a way that avoids constitutional issues. Courts are required to exercise caution to avoid any interpretation which gives rise to due process or other Constitutional concerns.[25] Due process issues in this context would include determining whether there was a substantive basis **in some statutory grant of power** to Rural Development to alter the management of private companies through an "automatic taking."[26] There would also be concerns arising from the vagueness of the Regulation and the lack of

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trial, see Trial Transcript at 39:17 to 42:4 and 56:9 to 57:8; and Gleichman testified to it as well, see Trial Transcript at 101:12 to 103:19 and 111:25 to 114:9.

[25] Courts construe statutes or regulations under the traditional doctrine of "constitutional avoidance" which commands "courts, when faced with two plausible constructions of a statute—one constitutional and the other unconstitutional—to choose the constitutional reading." Clark, 543 U. S., at 395 125 S. Ct. 716, 160 L. Ed. 2d 734 (dissenting opinion). The duty is to construe an act so as to comport with constitutional limitations." Civil Service Comm'n v. Letter Carriers, 413 U. S. 548, 571, 93 S. Ct. 2880, 37 L. Ed. 2d 796 (1973). In discharging that duty, "every reasonable construction must be resorted to, in order to save a statute from unconstitutionality." Hooper, 155 U. S., at 657, 15 S. Ct. 207, 39 L. Ed. 297.

[26] Compare Calcutt v. FDIC, 598 U.S. 623 (2023) (reversing an enforcement action by FDIC against former CEO of community bank for mismanagement in wake of 2007-2009 Great Recession; vacating order of removal of CEO and barring future banking involvement; the FDIC statute specifically authorized removal if certain conditions are met – i.e. misconduct that harms the bank or its depositors and dishonesty or willful disregard). See also Cleveland Board of Education v. Loudermill, 470 U.S. 532 (1985)(cannot terminate or discipline without pre-disciplinary hearing with notice of allegations and opportunity to respond and provide information; process also helps the employer avoid needless, time-consuming grievances and litigation).

procedural safeguards if the Regulation were given the strained construction urged by Scarcelli.[27]

Particular caution in the construction of the Regulation should be exercised here where it is a litigant/co-partner motivated by personal animosity and financial gain (and not RD) that is urging the Court to construe a regulation in a way that is contrary to the thrust of the regulation – i.e. to maintain consistent management. Great caution is called for where the private conflicted party is seeking an interpretation which **the regulatory body has never asserted and which is nowhere reflected in the regulation itself.** And even greater caution should be exercised where the person whose rights are being terminated without a hearing has been doing business with RD on a very large scale providing affordable housing over the course of decades.

The Regulation should also be construed to be consistent with the Uniform Limited Partnership Act. Scarcelli's automatic dissociation interpretation

[27] As the United States Supreme court recently wrote:

> Vague laws contravene the "first essential of due process of law" is that statutes must give people "of common intelligence" fair notice of what the law demands of them. Connally v. General Constr. Co., 269 U. S. 385, 391, 46 S. Ct. 126, 70 L. Ed. 322 (1926); see Collins v. Kentucky, 234 U. S. 634, 638, 34 S. Ct. 924, 58 L. Ed. 1510 (1914). Vague laws also undermine the Constitution's separation of powers and the democratic self-governance it aims to protect.

United States v. Davis, 588 U.S. 445, 451 (2019).

provision is entirely at odd with the ULPA dissociation statute addressed to the very topic (loss of economic interests). That statute clearly and expressly provides that a loss of economic interests will not be grounds in itself for an automatic dissociation. Relatedly, that uniform statute also clearly and expressly limits the rights that a creditor can assume upon foreclosing on charging orders.

The ULPA defines in two sub-sections (sections 1382 and 1383 of the ULPA) the limited nature of the impact that occurs when a creditor takes action to collect against a general partner's interests. Section 1382 provides that a transfer of economic interests does not cause dissociation. 31 M.R.S.A. §§ 1382[28] defines the limited nature of the interests that are transferred by a partner in a Maine limited partnership; that is, only the "transferable interest" get transferred, and that interest consists only of the economic interests that the partner was entitled to - explicitly providing that such transfers do not "entitle the transferee to participate in the

[28] Section 1382 provides in relevant part:

§1382. Transfer of partner's transferable interest

1. Transfer. A transfer, in whole or in part, of a partner's transferable interest:

A. Is permissible;

B. Does not by itself cause the partner's dissociation or a dissolution and winding up of the limited partnership's activities; and

C. Does not, as against the other partners or the limited partnership, entitle the transferee to participate in the management or conduct of the limited partnership's activities, to require access to information concerning the limited partnership's transactions except as otherwise provided in subsection 3 or to inspect or copy the required information or the limited partnership's other records.

management or conduct of the limited partnership's activities" or to any access to information about the partnership and that it does not result in dissociation.

Similarly reflecting the limited impact of a creditor's action against a partner are the provisions contained in section 1383 of the ULPA. 31 M.R.S.A. § 1383[29] defines the rights of the creditors of a partner, providing that the creditor may only obtain an order to "charge the transferable interest of the judgment debtor with payment of the unsatisfied amount of the judgment" - this giving "the judgment creditor [] only the rights of a transferee" and only "[t]o the extent so charged." The charging order merely "constitutes a lien on the judgment debtor's transferable interest" which is defined in the limited partnership statutes as "a partner's right to receive distributions"[30].

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[29] **§1383. Rights of judgment creditor of partner or transferee**

1. **Court order charging transferable interest; rights of transferee.** On application to a court of competent jurisdiction by any judgment creditor of a partner or transferee, the court may charge the transferable interest of the judgment debtor with payment of the unsatisfied amount of the judgment with interest. To the extent so charged, the judgment creditor has only the rights of a transferee. The court may appoint a receiver of the share of the distributions due or to become due to the judgment debtor in respect of the partnership and make all other orders, directions, accounts and inquiries the judgment debtor might have made or that the circumstances of the case may require to give effect to the charging order.

2. **Charging order a lien; foreclosure; rights of transferee.** A charging order constitutes a lien on the judgment debtor's transferable interest. The court may order a foreclosure upon the interest subject to the charging order at any time. The purchaser at the foreclosure sale has the rights of a transferee.

[30] The term "transferable interest" is defined in 31 M.R.S.A. § 1302(22) as follows:

(22) Transferable interest. "Transferable interest" means a partner's right to receive distributions.

The Business Court's construction that dissociation is automatic upon the loss of economic interests is directly contrary to this statute as well as the bedrock principle underlying it - providing that the transfer of the economic interests in a Maine limited partnership does not effect any automatic dissociation. See 31 M.R.S. 1382(1)(B)(a transfer of a partner's entire transferable interest "[d]oes not by itself cause the partner's dissociation…"). The common law and statutory law are designed to prevent hostile take-overs of management by creditors and assignees.

> The desire to exclude judgment creditors and assignees from management rights in a partnership is a strong and constant theme in the cases, see, e.g., Green v. Bellerive Condominiums Ltd. Partnership, 135 Md App 563, 763 A2d 252, 260-62 (2000), cert den, 534 U.S. 824, 122 S. Ct. 60, 151 L. Ed. 2d 28 (2001); Wells Fargo Bank v. Continuous Control Solutions, 821 NW 2d 777, 2012 Iowa App. LEXIS 628 (Iowa Ct App 2012); Madison Hills, 35 Conn App at 85-86, and, in that respect, the cases support our analysis.

Law v. Zemp, 408 P.2d 1045, 1058 -1059 (Ore. 2018).

This "strong and constant" theme underlying partnership law would be trivialized if the dissociation statutes were construed to provide for the loss of management interests as soon as economic interests were lost. If the transfer of a partner's entire transferable interest will not cause the partner's dissociation, the courts should not casually adopt an "implied incorporation" of a strained interpretation of a federal regulation not even addressed to dissociation.

The record in this case is clear that no one from Rural Development has

provided the interpretation Scarcelli urges and that no one ever suggested that Gleichman had to be removed based upon this regulation.[31] Instead, this theory of dissociation based upon the federal regulation was developed by Scarcelli's counsel and not even asserted by them until A) long after Scarcelli had settled a lawsuit agreeing to pay nearly $4 million and to not file suit again and B) long after she had failed in her attempts to pressure her mother to give up her rights and incur the resulting substantial tax liability and C) long after other theories of dissociating Gleichman had been shot down as being meritless. See sections D through I in the Statement of Fact section above.

And it is also undisputed that no semblance of due process was given to Gleichman before declaring her dissociated. Scarcelli presented the matter to RD without Gleichman's knowledge or involvement. Scarcelli told them that her mother had been dissociated (i.e. it was a fait accompli). It would have appeared to RD that the various interested parties had agreed on the arrangement. Scarcelli in fact had concealed from her mother her declaring her mother dissociated, and Gleichman never had any opportunity to contest any action in that regard.

B. THE BUSINESS COURT ERRED IN DECLARING THAT GLEICHMAN HAD BEEN REMOVED AS A LIMITED PARTNER

[31] There is no document in the record reflecting any RD action relieving Gleichman of her duties as a general partner. Letters from Scarcelli do not constitute approvals by RD. RD never received any application from Gleichman asking to be relieved of her obligations under the various agreements and guarantees that she signed with RD.

Count IV of Gleichman's Counterclaim sought a declaration that General Holdings had no right to remove her as a limited partner from the nine Maine partnerships in which she was the limited partner as well as a general partner.[32] Maine's current statutes do not apply to older entities such as these – and therefore there is no basis for dissociating any limited partners. To the extent that the current law is applied by analogy (despite not being directly applicable), it still does not justify dissociation of Gleichman as a limited partner because the current law requires that Gleichman as a general partner must give her consent to remove a limited partner – and she has not done so.

A. Law of Dissociating Limited Partners

The ULPA contains provisions defining when a limited partner is dissociated. They are contained in sections 1371 and 1372 of Title 31. Those sections define whether and how to eliminate or remove and replace a limited partner. Section 1371 deals with "Dissociation as limited partner" and 1372 is addressed to the "Effect of dissociation as limited partner".

Generally, those statutes provide that unless there is a death or unanimous consent or the occurrence of specific violations spelled out in the partnership

[32] The nine partnerships involved are: (1) Anson Street Associates, L.P.; (2) Dixfield Square Associates, L.P.; (3) Farmington Hill Associates, L.P.; (4) Greenbriar Estates Associates, L.P.; (5) Helen Noreen Associates, L.P; (6) Mallard Pond Associates, L.P; (7) On the Green Associates, L.P.; (8) Pheasant Run Associates, L.P.; and (9) Rumford Island Housing Associates, L.P..

agreement as resulting in expulsion for serious wrongdoing, a limited partner cannot be replaced at all and cannot even resign until there has been a "termination of the limited partnership". See Title 31, MRSA, section 1371(1).

The statute generally provides that a limited partner that is not an entity can only be removed by his or her death or by being expelled in accordance with a provision of the partnership agreement or by the unanimous vote of all of the "other partners in two defined situations." The most significant subsection of the current LP dissociation statute for this case is the provision addressing the dissociation procedure required when an LP has lost all of his or her transferable interests in the partnership. In that situation, the statute still requires the unanimous consent of all of the partners before any dissociation becomes effective. The relevant provision addressing the removal of a limited partner in this situation is Title 31, MRSA, section 1371(2)(D)(2). The statute directs that a limited partner can only be removed by the unanimous vote of all of the "other partners" - provided: A) that it would be "unlawful" to continue with the partnership with the person continuing as an LP or B) the LP has lost all of his or her transferable interests. See Title 31, MRSA, section 1371(2)(D)(2). Unanimous consent therefore is required under current law even if all transferrable interests are lost.

But the two sections of Title 31 (1371 and 1372) were designated as being inapplicable to "existing limited partnerships" – such as the nine partnerships

involved in the counterclaim. The applicability section states that "section 1371 and 1372 do not apply and a limited partner has the same right and power to dissociate from the limited partnership, with the same consequences, as existed immediately before July 1, 2007." 31 M.R.S. section 1453(3)(C).

B. No Basis For Automatic Dissociating Gleichman as A Limited Partner

Since Maine's current statutes do not apply to these partnerships, it was incumbent upon General Holdings to identify some law or partnership provision under which Gleichman was automatically removed under the law existing before July 1, 2007. They did not do so. Nor did the Business Court. The common law pre-July 2007 did not provide for a limited partner to be removed by one or two partners; limited partner instead had the right to remain as partners in accordance with the partnership agreement. There was no provision in any agreement allowing a limited partner to be removed because of a creditor action such as an attachment made against his or her rights to receive distributions.

In the absence of some law requiring removal or dissociation of a limited partner, no Court should simply declare such a valuable contractually purchased position to have been automatically eliminated based upon a creditor action in the nature of an attachment.[33] This is particularly so in light of the many tax and entity

[33] Gleichman's LP interests were not transferred or eliminated by that Illinois action since the decision in Illinois stated that it was transferring only Gleichman's "transferable

dissolution implications[34] to the partners and the partnership itself arising from a limited partnership losing its limited partner. And the federal regulation invoked by Scarcelli has nothing to do with limited partners.

To the extent that the current law is applied by analogy (despite not being directly applicable), it likewise does not justify the dissociation of Gleichman as a limited partner. A limited partner cannot be eliminated or dissociated based upon the loss of economic interests alone – or by an attachment of sums owing from the partnership to that limited partner. Unanimous consent is required as discussed above, and each of the nine partnership agreements required general partner consent

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interests." The status as a limited partner is not transferrable. Only the right to distributions falls within the category known as "transferable interests". See definition of "transferable interests" in section 1302(21) of Title 31. A creditor cannot take over the status of being a limited partner and a Court cannot so decide. The limited partner's right to ongoing distributions is all that is encumbered; the status of being a limited partner is a separate matter - the loss of which has serious tax consequences for the partner and the partnership – well beyond the distributions.

In addition, both Maine and Illinois provide that any transfer of an interest in a limited partnership is invalid to the extent that it purports to transfer rights in a way which would violate the consent requirements contained in a partnership agreement. Title 31 MRSA section 1382(6) provides as follows:

> **(6.)** Transfer in violation of restriction. A transfer of a partner's transferable interest in the limited partnership in violation of a restriction on transfer contained in the partnership agreement is ineffective as to a person having notice of the restriction at the time of transfer.

See also 805 ILCS 215/702(f) "Transfer of partner's transferable interest."

[34]See 31 M.R.S. section 1391(4)(partnership dissolved upon the passage of 90 days after the dissociation of the limited partnership's last limited partner, unless new partner admitted before the end of the 90 day period).

to any transfer of LP interests[35] as well as certifications as to the tax implications of dissociating the limited partner.[36]

VI. CONCLUSION

The Court should reverse and enter judgment for the Appellants declaring that Gleichman remains as a General Partner in each of the 48 partnerships and remains as a limited partner in the nine identified projects.

Dated this 10th day of August, 2025, at Portland, Maine.

Respectfully submitted,
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[35] They stated that the required consents would not be effective if in the opinion of Counsel to the Partnership, the contemplated transfer would result in terminating the partnership's status as a partnership under the Internal Revenue Code or terminate the partnership's "taxable year" under the Code See, for example, Defendants' Exhibit 29-E (Helen Noreen) at section 10.2 (Assignment by Limited Partner) at 57 -58. That agreement provides that "[a]ny transfer hereunder shall be effective only if: … (d) the General Partners consent to such Assignment (which consent may be given or withheld at the General Partners' sole discretion)."

[36] Other partnership agreements with the same provisions requiring that the general partners consent to the transfer of any LP interests include Defendants' Exhibit 29-F (Mallard Pond Associates) at section 10.2 (Assignment by Limited Partner) at 29 and Defendants' Exhibit 29-G (On the Green Associates) at section 10.2 (Assignment by Limited Partner) at 28. Sections 6.1, 7.1, 8.1 or 10.2 of six other agreements submitted by the Plaintiff also incorporate these same consent requirements. See Plaintiff's Exhibits 1-A (Anson – section 6.1 at page 24) , 1-B (Dixfield – section 6.1 at pp. 19-21), 1-C (Farmington Hill - section 8.1 at pp. 28-29), 1-D (Rumford Isl. - section 6.1 at pp. 62 -64) , 1-E (Greenbriar – section 10.2 at pp. 29 -31) and 1-F (Pheasant Run section 7.1 at pp. 15- 17).

CERTIFICATE OF SERVICE

I, John S. Campbell, Esq., hereby certify that a digital copy of this Appellant's Brief was emailed to Attorney James D. Poliquin, Esq. on this date to jpoliquin@nhdlaw.com and that one copy of the appendix and two copies of the brief will be placed in the mail to James Poliquin, Esq. at 220 Middle Street Portland, ME 04112-4600 in accordance with the Rules of Appellate Procedure.

September 10, 2025

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