UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SECURITIES AND EXCHANGE COMMISSION, Plaintiff, -v- LEGEND VENTURE PARTNERS, LLC, Defendant.	:	No. 1:23-cv-05326-LAK

THE RECEIVER'S MEMORANDUM OF LAW IN
OPPOSITION TO MOTION FOR LIMITED PERMISSIVE INTERVENTION

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Melanie L. Cyganowski, in her capacity as Court-appointed receiver (the "**Receiver**") of the "**Legend Entities**"[1], through her counsel, Otterbourg P.C., respectfully submits this Memorandum of Law, together with the Receiver's contemporaneously filed declaration (the "**Cyganowski Dec**."), in opposition to the "Motion for Limited Permissive Intervention" (the "**Motion**") [Dkt. No. 227], submitted by investor Robert A. McLauchlan ("**Movant**") and respectfully states as follows:

PRELIMINARY STATEMENT

The Motion asks the Court to upend the basic structure of this Receivership – elevation of a single investor into a party, not to litigate alongside either the plaintiff or defendants, but to second-guess the Receiver's deliberative process – a request that would undermine effective and efficient receivership administration and result in chaotic, piecemeal litigation. Movant has avenues available under the Receivership Order, the Procedures and the Plan (all as defined below) to enforce any rights Movant believes he holds. Intervention is not the appropriate vehicle to seek their enforcement.

Among other things, intervention now would delay resolution of the Receivership to the detriment of all other investors. This is not an instance in which intervention is sought at the outset of the receivership as in *SEC v. Credit Bancorp, Ltd.*, 194 F.R.D. 457 (S.D.N.Y 2000), the sole intervention case cited in the Motion. Here, Movant waited over 2.5 years after the Receiver's appointment to seek to intervene – notwithstanding prior notice and an opportunity to be heard – filing his Motion months after the Court granted the Receiver's motion for approval of her Plan of Distribution (the "**Plan**"), which is now being implemented, with assets sold and distributions in

[1] The "**Legend Entities**" include Legend Venture Partners LLC and five (5) investment funds (the "**Legend Funds**"): Legend Ventures Fund 1 LLC, Legend Ventures Fund 2 LLC, Legend Ventures Fund 3 LLC, Legend Ventures Fund 4 LLC and Legend Ventures Fund 5 LLC.

process. *Cf. SEC v. Elliott*, 953 F.2d 1560, 1566–67 (11th Cir. 1992); *FTC v. Jordan Ashley, Inc.*, 1995 WL 792076, at *2-3 (S.D. Fla. June 15, 1995). Indeed, while other investors availed themselves of the opportunity to object to the Plan, Movant did not, yet seemingly appears now to do so, belatedly.

This also is not an instance in which Movant has a unique interest to protect against potential impairment, such as an instance in which a movant holds a security interest in distinct receivership assets and moves to intervene at the inception of the case before funds are distributed. *See Lawsky v. Condor Cap. Corp.*, No. 14 civ 2863-CM, 2014 WL 2109923 at *9 (S.D.N.Y. May 13, 2014) (granting intervention to a secured creditor and noting "[h]ere, by contrast, we are at the inception of the case, not the point when funds are being disbursed, and the proposed intervenor occupies a unique position among Condor's creditors…"). Here, Movant was a Legend investor who, like all other Legend investors, invested in one of the Legend Funds. Indeed, Movant's *sole* investment in Legend, an interest in Legend Ventures Fund 5 LLC ("**LVF5**"), identified towards shares of Space Exploration Technologies, Corp. ("**SpaceX"**), was monetized **prior to** his filing of the Motion and since then, such net proceeds have been distributed to qualifying investors, including Movant. Under these facts, intervention is inapposite – it does not offer any protection against any alleged potential impediment of Movant's LVF5 interest.

Contrary to Movant's contention, his request for what he deems "limited" intervention will prejudice the Receivership. At this late date, granting one investor the right to intervene as a party, particularly an investor whose Legend interest has been "cashed out" and who apparently seeks intervention as a means to conduct discovery to assert a claim, could only result in increased administrative costs, disruption to the receivership process and delay of distributions to other investors. Indeed, just responding to this Motion has required the Receivership Estate to incur unnecessary additional administrative costs when, as discussed below, Movant filed his Motion precipitously, not even allowing the Receiver time during the year-end holiday period to respond to his request for information. Movant is unable to satisfy any of the factors under the Federal Rules on which intervention is based. He has avenues available under the Receivership Order, the Procedures and the Plan to enforce any rights he believes he holds.

For the reasons set forth herein, it is respectfully submitted that the Motion should be denied.

BACKGROUND

The factual background is more fully discussed in the Cyganowski Dec. on which the following discussion is based.

A. Appointment of the Receiver and the Status of the Receivership

The Receiver was appointed by order dated July 7, 2023 ("**Receivership Order**") [Dkt. 33]. On May 28, 2025, the Receiver filed her "Motion for Entry of an Order Establishing Procedures for Resolution of Claims and Interests and Setting Bar Dates for Claims" ("the "**Procedures Motion**") [Dkt. 174], which the Court granted by order dated June 26, 2025 (the "**Procedures Order**") [Dkt. 190], thereby establishing procedures for the resolution of interests and claims (the "**Procedures**") [Dkt. 168]. After entry of the Procedures Order, on or about July 25, 2025, the Receiver promptly began implementation of the Procedures, by issuing Investor Statements to all investors (including Movant) to confirm their investments in the Legend Funds, and by issuing her Claims Analysis Report dated November 5, 2025 [Dkt. 217], setting forth her determination of the allowance or disallowance of all proofs of claim that had been submitted.

On May 28, 2025, the Receiver also filed her "Motion for Approval of the Receiver's Proposed Plan of Distribution" (the "**Plan Motion**") [Dkt. 179-192], which the Court granted by order dated August 29, 2025 (the "**Plan Order**") [Dkt. 210]. Since entry of the Plan Order, the Receiver has implemented her Plan of Distribution (the "**Plan**"), including monetizing certain assets and processing distributions to investors. To date, the Receiver has processed distributions of more than $6.7 million to over 205 investors. Further sales and distributions are planned for 2026.

Movant received actual written notice of both the Procedures Motion and the Plan Motion, and the deadlines to object to each, but did not object to either.[2] *See* Cyganowski Dec. at ¶ 8–10.

B. Redemption of Legend's Midway-SpaceX Interests

As noted, Movant was an investor in LVF5, a Delaware LLC. Although a Legend investor might have identified the investment toward shares of a particular Pre-IPO Company, the investor did not thereby acquire any such shares. The investor only received an equity interest in the applicable Legend Fund. As a Legend investor, Movant did not hold any ownership interest in SpaceX shares. *See* Cyganowski Dec. at ¶ 11. Under Delaware law, Movant, like all Legend investors, did not hold an interest in the underlying assets acquired by Legend. *See* 6 Del. C. § 18-701 ("A member has no interest in specific limited liability company property.").

Indeed, Legend itself did not hold any interest in SpaceX shares. Rather, as with approximately 98% of the investments, Legend only held an investment in a special purpose vehicle controlled by a third party, in this instance, Midway Venture Partners LLC ("**MVP**"), also a Delaware LLC, which either directly or indirectly held SpaceX shares. *Id*; Cyganowski Dec. at ¶ 12.

Under MVP's operating agreement, Legend was not free to redeem or sell its SpaceX-related MVP interest. Redemption was only permissible upon dissolution of MVP. *Id.* at ¶ 14.

[2] Of course, the time to object to the Receiver's Procedures Motion and her Plan Motion have long since passed.

MVP's operating agreement restricted the sale of Legend's interest without the prior written consent of MVP (through its affiliate, acting as Manager of the fund), "which consent may be given or withheld **in the sole discretion of the Manager**." (Emphasis added.) *Id.*

In sum, Legend's SpaceX-related investment was not in SpaceX shares, but was comprised of an interest in MVP, a separate investment fund with its own operating agreement. Both the indirect nature of Legend's SpaceX-related MVP interest and the restrictions on redemption and sale in MVP's operating agreement severely impaired the Receiver's capacity to monetize Legend's investment. *Id.* Nonetheless, the Receiver did monetize Legend's SpaceX related holdings in MVP by redeeming Legend's interest – and at a price that public data showed was commensurate with the price that directly-held SpaceX shares were being sold privately.[3] *Id.* at ¶ 15.

Specifically, in accordance with Section 4.7 of the Plan, and in the sound exercise of her business judgment[4], the Receiver redeemed the entirety of Legend's equity interests in MVP for **$12,190,230.00** (which equates to $195 per common share of SpaceX) pursuant to an agreement with MVP dated November 3, 2025, which closed on November 14, 2025 (the "**MVP Transaction**") [Dkt. 218]; Cyganowski Dec. at ¶ 15, 21. The MVP Transaction represented disposition of all of Legend's interests relating to SpaceX – including Movant's interest in LVF5. *Id.* at ¶ 15, 23. Thereafter, on or about December 29, 2025, the net proceeds from the MVP Transaction (net of reserves under the Plan) were distributed to qualifying Legend investors that

[3] SpaceX shares are Pre-IPO shares and are not publicly traded on a national exchange. Accordingly, pricing information that is publicly available is indicative, not dispositive, but is deemed directionally sound and relied upon on that basis.

[4] The Receiver is aware that the public data shows increased pricing a month after the consummation on November 14, 2025 of the MVP Transaction, apparently a result of rumors, confirmed by SpaceX's CFO about a month after the MVP Transaction, that SpaceX was considering an IPO in 2026. However, the Receiver's role is not to "play the market", and hope for an increased recovery. The SpaceX shares could have dropped in value after November 14, just as easily as they may have increased. *See* Cyganowski Dec. at ¶ 21, Exhibits 5, 7, 8.

had earmarked their Legend investments to SpaceX shares, **including Movant**, in payment of their *pro rata* shares of the net proceeds. *See* Dkt. 230. The MVP Transaction resulted in a return to Legend's SpaceX investors, like Movant, of over **96%** of their original investment. *See* Cyganowski Dec. at ¶ 15.

On or about November 17, 2025, the Receiver filed a notice of the MVP Transaction [Dkt. 218] and posted the notice on the Legend website she created to communicate with investors[5] stating "… on November 14, 2025, the Receiver completed a transaction redeeming all of Legend's equity interests in Space Exploration Technologies, Corp. for a total of $12,190,230.00 (which equates to $195 per common share). No fees or commissions were incurred by the Receivership Entities in connection with this transaction." *See* Cyganowski Dec. at ¶ 16. Thereafter, on December 3, 2025, the Receiver caused a notice to be posted on the website notifying Legend investors that on or about December 29, 2025, the Receiver intended to distribute the net proceeds from the MVP Transaction; *Id*. at ¶ 17, as has since occurred.

It is for the MVP Transaction and the subsequent distribution that Movant apparently seeks to intervene.

C. Movant's Letter and Motion

After business hours on Friday, December 19, 2025, Movant, a practicing lawyer in Texas, emailed a letter (the "**December 19 Letter**") to the Receiver raising questions about the MVP Transaction. (Cyganowski Dec. at ¶ 18, Ex. 6.) In the December 19 Letter, Movant asserted (incorrectly) that "the stated redemption price appears materially below prevailing private-market indications for SpaceX equity during the relevant period," and requested information concerning the sale process. [December 19 Letter at 2–3; Cyganowski Dec. at ¶ 18].

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[5] *See* https://cases.stretto.com/legendreceivership/

On Monday, December 22, 2025, upon review of the December 19 Letter and at the Receiver's request, Receiver's counsel emailed Movant to state that the Receiver would promptly respond to his inquiries. *See* Cyganowski Dec. at ¶ 18. Movant emailed back "thank you." *Id*. Notwithstanding these communications and Movant's statement in his December 19 Letter that he remained "open to constructive dialogue to clarify these issues prior to involving the Court" [December 19 Letter at 4], Movant filed the Motion without prior notice and without permitting the Receiver any opportunity to respond to the December 19 Letter in the ordinary course. *See* Cyganowski Dec. at ¶ 19.

ARGUMENT

MOVANT IS NOT ENTITLED TO INTERVENE

In the Second Circuit, "substantially the same factors" govern motions to intervene "whether the claim for intervention is 'of right' under Fed. R. Civ. P. 24(a)(2), or 'permissive' under Fed. R. Civ. P. 24(b)(2)." *"R" Best Produce, Inc. v. Shulman-Rabin Mktg. Corp.*, 467 F.3d 238, 240 (2d Cir. 2006) (citation omitted). *See also U.S. Commodity Futures Trading Comm'n v. Efrosman*, No. 05 CIV 8422 KMW, 2012 WL 2510338 at *3 (S.D.N.Y. June 26, 2012). Those factors include, among others, (i) timeliness of the motion to intervene, (ii) potential impairment of an interest relating to the matter, and (iii) prejudice to the rights of others interested in the action.[6] The burden to prove compliance with the intervention factors is the applicant's. *Floyd v.*

[6] Federal Rule of Civil Procedure 24(a)(2) provides that on timely motion, a party has a right to intervene in an action: "when the applicant claims an interest relating to the property or transaction which is the subject of the action and he is so situated that the disposition of the action may as a practical matter impair or impede his ability to protect that interest, unless the applicant's interest is adequately represented by existing parties." *See NAACP v. New York*, 413 U.S. 345, 366, 93 S. Ct. 2591, 2603, 37 L. Ed. 2d 648, n.15 (1973).

Federal Rule of Civil Procedure 24(b), "which governs permissive intervention, provides in relevant part: [u]pon timely application anyone may be permitted to intervene in an action: ... (2) when an applicant's claim or defense and the main action have a question of law or fact in common.... In exercising its discretion the court shall consider whether the intervention will unduly delay or prejudice the adjudication of the rights of the original parties." *See SEC v. Bear, Stearns & Co. Inc.*, No. 03 civ. 2937-WHP, 2003 WL 22000340, at *2 (S.D.N.Y. Aug. 25, 2003).

City of New York, 302 F.R.D. 69, 100 (S.D.N.Y.), *aff'd in part*, *appeal dismissed in part*, 770 F.3d 1051 (2d Cir. 2014). "Failure to satisfy *any one* of these [four] requirements is a sufficient ground to deny the application." *See* "*R" Best Produce, Inc.*, 467 F.3d 238 at *241 (emphasis in original). Movant has not, and cannot, satisfy the factors on the facts relevant to this Motion.

A. The Motion is Untimely

Movant was on notice of the Receiver's appointment (July 7, 2023) no later than August 1, 2023 when the Receiver emailed all investors with known email addresses (including Movant) advising of her appointment, attaching the Receivership Order and a letter explaining the receivership process, and "encouraging" investors to email her at a dedicated email address with any questions. Thereafter, Movant received further notice from the Receiver of the Procedures Motion and the Plan Motion, and he received his Investor statement confirming his LVF5 investment. *See* Cyganowski Dec. ¶ 5, 8–10.

However, notwithstanding his certain knowledge of the Receivership, of the Procedures and of the Plan, Movant did not file his Motion or otherwise communicate with the Receiver until after disposition of his interest in LVF5. *Id.* at ¶ 8–10, 23. Even if Movant could satisfy the other intervention factors (he cannot), the time to seek intervention should have been **before** entry of the Plan Order and certainly prior to the disposition of his LVF5 interest – that is, at a time when he could have acted to prevent any purported potential impairment (none existed in fact). His delay in moving only **after** the disposition of his interest is fatal to his Motion.

As the Supreme Court has noted: "Whether intervention is claimed of right or as permissive, it is at once apparent from the initial words of both Rule 24(a) and Rule 24(b) that the

Federal Rule of Civil Procedure 24(c) also "requires that a motion for intervention 'state the grounds for intervention and be accompanied by a pleading that sets out the claim or defense for which intervention is sought.'" *Id.* at *4, n.3.

application must be timely. If it is untimely, intervention must be denied." *NAACP*, 413 U.S. 345 at *365; *See also United States v. Simpson Borough Place Corp.*, No. 01-CV-693 DLI VVP, 2007 WL 2581888 (E.D.N.Y. Sept. 5, 2007) (noting that "[o]f all the factors, the first factor-the length of time that [the movant] knew or should have known of his interest-is the most important and the most damaging to [the movant]."). Under no circumstances can this Motion be deemed timely. Courts assessing timeliness consider four factors: "(a) the length of time the applicant knew or should have known of his interest before making the motion; (b) prejudice to existing parties resulting from the applicant's delay; (c) prejudice to the applicant if the motion is denied; and (d) the presence of unusual circumstances militating for or against a finding of timeliness." *In re 650 Fifth Ave.*, 2015 WL 13700952, at *2 (S.D.N.Y. Apr. 17, 2015) (citations omitted). Each factor weighs decisively against intervention here.

Indeed, the delay here far exceeds the delays courts have found untimely in other cases. *See Borough Place Corp.*, 2007 WL 2581888, at *3 (collecting cases) (noting that delays of eight months, twelve months, and fifteen months were held untimely); *see also In re 650 Fifth Avenue*, 2015 WL 13700952, at *2 (S.D.N.Y. Apr. 17, 2015) (denying intervention motion where movants waited years after having notice of their alleged interests and sought to intervene only once the proceedings were at an advanced stage, despite extensive public proceedings and media coverage.); *FTC v. Jordan Ashley, Inc.*, 1995 WL 792076, at *2–3 (S.D. Fla. June 15, 1995) (denying intervention where the movant waited more than two months after becoming aware of her asserted interest).

The sole intervention case cited in the Motion, *SEC v. Credit Bancorp, Ltd*., 194 F.R.D. 457 (S.D.N.Y. 2000), supports a finding of untimeliness here.[7] There, permissive intervention was granted after intervention motions were filed by investors at the earliest stage of the action — within a time frame ranging from as early as two days *before* the Court's order appointing a receiver to as little as 11 days afterwards. *Id.* at *460. As the *Credit Bancorp* Court noted "the Receiver has not yet had the opportunity to complete his investigation into Credit Bancorp's finances, and it is not altogether clear how any distribution of assets will be handled…The only thing certain at this point is uncertainty…," *id.* at *463, and holding that "[u]nder the facts of the instant case, and given that the proposed intervenors are likely to have extensive participation in this case whether or not intervention is allowed, the Court will allow intervention under Rule 24(b)." *Id.* at *468.

The Motion here is wholly distinguishable. Movant was on notice of his interest for over 2.5 years before moving to intervene, doing so after the Receivership was well under way — *after* entry of the Procedures Order, after entry of the Plan Order, after implementation of the Plan, after liquidation of Legend's SpaceX-related investment, including Movant's LVF5 interest, and after commencement of distributions to investors, including Movant. *See* Cyganowski Dec. 6, 8–10, 23.

B. Movant Lacks a Direct, Substantial, and Legally Protectable Interest Sufficient to Support Intervention

To intervene, a movant must demonstrate a "direct, substantial, and legally protectable interest" in the subject matter of the action. *Washington Elec. Coop., Inc. v. Mass. Mun. Wholesale*

[7] Movant mischaracterizes *SEC v. Wang*, 944 F.2d 80 (2d Cir. 1991) – one of the two cases cited in his motion. *Wang* does not address Rule 24 or intervention, nor does it endorse investor participation as parties; it affirmed only the district court's equitable authority to approve a plan of distribution over the objection of an investor, holding "[t]he district court's task is to decide whether, in the aggregate, the plan is equitable and reasonable. In our view, the district court understood the essence of the [plan] and did not abuse its discretion in approving it." *Wang*, 944F.2d 80 at *88. Movant was afforded notice and an opportunity to object to the Plan Motion, but did not do so. *See* Cyganowski Dec. at ¶ 10.

Elec. Co., 922 F.2d 92, 97 (2d Cir. 1990). An interest that is remote or contingent upon a sequence of events before it becomes colorable does not suffice. *Id.* "Although the applicant "need not have an independent cause of action, the interest must be "a legal interest as distinguished from interests of a general and indefinite character." *Floyd v. City of New York*, 302 F.R.D. 69, 99-100 (S.D.N.Y.), *aff'd in part, appeal dismissed in part*, 770 F.3d 1051 (2d Cir. 2014) (denying intervention where there was no direct and legally protectable interest belonging to the applicant). Generally, a legally protectable interest is one which the law accords some degree of legal protection. *Id.* at *116. Here, Movant does not hold any interest on which intervention can be based. Whatever interest in Legend Movant once had was extinguished in November 2025, with the MVP Transaction. That transaction is complete, and net proceeds have been distributed in accordance with the Plan. *See* Cyganowski Dec. at ¶ 17, 21, 23.

Even assuming *arguendo* that Movant could identify an appropriate interest, the Motion still fails because Movant cannot show that "the disposition of the action may as a practical matter impair or impede [his] ability to protect that interest." Fed. R. Civ. P. 24(a)(2). This demands more than dissatisfaction with the outcome of a court-supervised receivership. *See SEC. v. Am. Pension Servs. Inc*., No. 2:14-CV-00309-RJS, 2015 WL 136322 (D. Utah Jan. 9, 2015). It requires a showing that denial of intervention will foreclose meaningful avenues of protection. *Cf. SEC v. Everest Mgmt. Corp*., 475 F.2d 1236, 1239 (2d Cir. 1972) (denying intervention where a proposed intervenor "will not be precluded by res judicata or collateral estoppel from bringing [his] own action."); *CFTC v. Efrosman*, 2012 WL 2510338, at *4 (S.D.N.Y. June 26, 2012) (denying intervention where private party could "bring its own, separate action" and government action would not impair that interest).

There is no remaining *res* for Movant to protect, no ongoing allocation to influence, and no prospective impairment that intervention could avert. *See Am. Pension Servs., Inc*., 2015 WL 136322, at *3 (no impairment where investor was "similarly situated with other investors" and merely disagreed with receiver's allocation methodology). While Movant here, who is similarly situated with other investors "may disagree with the Receiver's liquidation plan, his conflict with the Receiver's [asset valuation decision] do[es] not correlate with an impairment of his legal interests." *Id.*[8] Intervention would serve no protective function and would amount to nothing more than collateral litigation over a consummated receivership decision.

Finally, and importantly, Movant does not – and cannot – contend that denial of intervention will bar him by *res judicata* or collateral estoppel from pursuing any separate action he believes he may have. Movant identifies no claim that would be extinguished, no right that would be foreclosed, and no preclusive effect that would attach from denial of intervention. As such, intervention is not appropriate. *Efrosman*, 2012 WL 2510338 at *4.

C. Prejudice to the Receivership Estate Outweighs any Claimed Prejudice to Movant

Permissive intervention must be denied where it would "unduly delay or prejudice" the action. Fed. R. Civ. P. 24(b)(3). *See United States v. Pitney Bowes, Inc.*, 25 F.3d 66, *72-73 (2d Cir. 1994) (noting that "[t]he principal guide in deciding whether to grant permissive intervention is whether the intervention will unduly delay or prejudice the adjudication of the rights of the original parties" and denying intervention upon a finding that "[j]eopardizing a settlement

[8] *Credit Bancorp* underscores why intervention is improper here. There, the Court explained that where non-party investors' "primary interests lie in safeguarding their rights to assets presently held by the Receiver," summary proceedings supervised by the district court are presumptively adequate to protect those interests, particularly where "the handling or distribution of those assets is a matter of dispute." 194 F.R.D. 457 at *468. The premise of *Credit Bancorp* was not that intervention is required whenever an investor disagrees with a receiver, but that court-supervised claims and distribution procedures are ordinarily sufficient to protect investor interests without intervention. That is precisely what exists here.

agreement causes prejudice to the existing parties”). Permitting intervention now would substantially prejudice administration of the Receivership. *See SEC v. Byers*, No. 08 civ. 7104-DC, 2008 WL 5102017 at *1 (S.D.N.Y. Nov. 25, 2008); *Bear, Stearns & Co. Inc.*, No. 03 civ. 2937-WHP, 2003 WL 22000340, at *4 (denying intervention and holding that allowing investor intervention in the SEC action would result in near-certainty of undue delay, complexity and confusion).

While Movant attempts to cabin his request as a “limited” intervention confined to his own investment, that characterization collapses under scrutiny. In fact, Movant’s request would divert the Receivership from its core function – orderly, court-supervised asset administration for the benefit of all investors. Courts consistently deny intervention where it would “cause further delay and further costs to the receivership estate.” *FTC v. Jordan Ashley, Inc.*, 1995 WL 792076 at *3 (S.D. Fla. June 15, 1995). *See also Byers*, 2009 WL 212780, at *2 (S.D.N.Y. Jan. 30, 2009), in which the Court rejected permissive investor intervention in a receivership, explaining that “as a practical matter, it does not make sense to allow individual victims and creditors to intervene as parties,” particularly where there are hundreds or thousands of investors with divergent views.

By contrast, Movant will suffer no cognizable prejudice from denial of intervention. The Receivership Order, the Procedures and the Plan provide Movant with alternative avenues to pursue if he believes that he has not been treated fairly.

D. Commonality is Lacking

Permissive intervention requires that the proposed intervenor’s claim or defense share a common question of law or fact with the main action. Fed. R. Civ. P. 24(b)(1)(B). Movant does not meet this requirement: Movant does not allege wrongdoing by the defendants, does not challenge the SEC’s enforcement claims and does not seek relief tied to the merits of the underlying fraud action. Instead, if he asserts any claim it is with asset disposition by the Receiver. Movant is not seeking to become a party litigant in this case[9]; he is seeking to supervise the Receiver. Rule 24(b) does not permit that result.[10]

CONCLUSION

In sum, there are no legal grounds to grant the Motion and no practical reason to do so. It is respectfully requested that the Motion be denied.

Dated: New York, New York
January 12, 2026

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[9] This is further evidenced by his failure to comply with the strictures of Rule 24(c), which expressly requires that that a motion to intervene "be accompanied by a pleading that sets out the claim or defense for which intervention is sought." Fed. R. Civ. P. 24(c). *Cf. Am. Pension Servs. Inc.*, 2015 WL 136322 at *1–2 (D. Utah Jan. 9, 2015).

[10] *See Everest*, 475 F.2d at 1240 (holding that permissive intervention is disfavored in SEC actions because "the complicating effect of the additional issues and the additional parties outweighs any advantage of a single disposition of the common issues.").