

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION

SECURITIES AND EXCHANGE  
COMMISSION,

Plaintiff,

v.

Case No. 8:20-cv-00325-MSS-MRM

BRIAN DAVISON;  
BARRY M. RYBICKI;  
EQUIALT LLC;  
EQUIALT FUND, LLC;  
EQUIALT FUND II, LLC;  
EQUIALT FUND III, LLC;  
EA SIP, LLC;

Defendants, and

128 E. DAVIS BLVD, LLC, et al.,

Relief Defendants.

---

**ORDER**

**THIS CAUSE** comes before the Court for consideration of Non-Parties Dawn and Scott Stallmo’s Motion to Intervene, (Dkt. 807), and the responsive briefing in opposition. (Dkts. 831 and 833) Upon consideration of all relevant filings, case law, and being otherwise fully advised, the Court **DENIES** the Motion.

Rule 24 of the Federal Rules of Civil Procedure authorizes two forms of intervention in a federal case: intervention as a matter of right and permissive intervention. See FED. R. CIV. P. 24. A court must permit intervention when a party “claims an interest relating to the property or transaction that is the subject of the

action, and is so situated that disposing of the action may as a practical matter impair or impede the movant's ability to protect its interest, unless existing parties adequately represent that interest” FED. R. CIV. P. 24(a)(2). To succeed on a motion to intervene, the moving party must establish as a threshold matter that the motion is timely. See Howse v. S/V Canada Goose I, 641 F.2d 317, 320 (5th Cir. 1981).<sup>1</sup> A motion to intervene is timely if the four factors identified in United States v. Jefferson Cnty., 720 F.2d 1511, 1516 (11th Cir. 1983) favor intervention.

Here, Dawn and Scott Stallmo (the “Stallmos”) are defendants in a related case captioned Wiand v. Adamek et al., No. 8:21-cv-00360-JLB-CPT (M.D. Fla. Feb. 13, 2021). The Stallmos move to intervene only to open discovery to determine whether the assets marshalled by the Receiver thus far are sufficient to satisfy all of the outstanding debentures without payment of interest. (Dkt. 807) To the extent that the marshalled assets are sufficient to cover the outstanding debentures, the Stallmos also request an Order from this Court directing the Receiver to liquidate all assets and accounts in its possession, pay the existing claimants, terminate the receivership, and dismiss all remaining actions. (Id.)

The Receiver and Plaintiff both argue that the Stallmos’ motion should be denied because Section 21(g) of the Exchange Act bars intervention. This Court agrees with the Receiver and Plaintiff for the reasons outlined in SEC v. Freedom Env't Servs., Inc., No. 6:12-cv-01415, 2013 WL 12155837, at \*2 (M.D. Fla. Feb. 1, 2013).


---

<sup>1</sup> See Bonner v. City of Prichard, Ala., 661 F.2d 1206, 1207 (11th Cir.1981) (adopting as binding precedent all decisions of the former Fifth Circuit issued on or before September 30, 1981).

Stated plainly, the Exchange Act “bars a third party from intervening in a Commission enforcement action absent the Commission's consent.” See id. (citing SEC v. Nadel, No. 8:09-CV-87-T-26TBM, 2009 WL 3126266, \*1 (M.D. Fla. Sept. 24, 2009)).

Accordingly, it is hereby **ORDERED AND ADJUDGED** that Non-Parties Dawn and Scott Stallmo’s Motion to Intervene, (Dkt. 807), is **DENIED**.

**DONE** and **ORDERED** in Tampa, Florida, this 1st day of May 2023

  
\_\_\_\_\_  
MARY S. SCRIVEN  
UNITED STATES DISTRICT JUDGE

**COPIES FURNISHED TO:**  
Counsel of Record