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F. #2021R00900

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA

- against - No. 23-CR-82 (EK)

CARLOS WATSON and
OZY MEDIA, INC.,

Defendants.

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THE GOVERNMENT'S OPPOSITION TO THE DEFENDANTS' MOTION TO DISQUALIFY THE HONORABLE ERIC R. KOMITEE

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The government respectfully submits this letter in response to the defendants' motion to disqualify the Honorable Eric R. Komitee. See ECF Nos. 325, 326 ("Mot."), 328. The motion is nothing more than the next step of the defendants' ongoing efforts to attack and blame anyone and everyone who attempts to hold them accountable. It is untimely and utterly baseless, and it should be denied.

BACKGROUND

From the beginning of this case, the defendants have attempted to avoid responsibility by deflecting blame onto others. When the impersonation of Alex Piper was first discovered, Carlos Watson developed a plan for co-conspirator Samir Rao to take the fall by concocting a made-up mental health crisis. See Trial Tr. 841-44. When it became clear that the New York Times was about to break the story, Watson and Rao discussed plans to attack and undermine the story and its author, including "Accuse Ben [Smith]," "Not kosher to attack mental health" and "Not kosher to take down a black owned company." See Government Exhibit ("GX") 5131. The defendants later sued the author of the article. See Ozy Media Inc. v. Benjamin Smith, et al., No. 23-CV-9412 (FB).

Once the indictment was filed, the defendants turned their attacks to the individual prosecutors through wholly invented claims of racial bias, which they pushed publicly in press releases, websites, and even a feature film screened in New York a month before trial. See ECF No. 264. After a jury convicted them of fraud, the defendants redoubled their efforts, turning their focus to the judge presiding over the trial, the Honorable Eric R. Komitee. For example, the defendants and their supporters have published a series of letters accusing Judge Komitee of misconduct, which letters they posted on the same website previously used to accuse the prosecutors of racial bias. See Too Black for Business, 23 Separate Complainants Write

Letters of Judicial Complaint, available at https://www.tooblackforbusiness.org/cw/cw-unfair-trial & https://cdn.prod.website-files.com/6548cda829d7c8ad6c8d9e3f/670e311942b415a30af23c4f_Eric%20Komitee_Combined%20Letters%20of%20Complaint_FINAL_092624%20redacted-compressed.pdf.

On October 25, 2024, less than two months before the scheduled sentencing date, the defendants advanced their latest effort to avoid responsibility for their crimes by seeking to disqualify Judge Komitee and vacate their convictions. See Mot. Principally, the defendants claim that Judge Komitee must be disqualified because (1) he holds investments in hedge funds (the "Funds") managed by Viking Global Investors LP ("Viking"), D1 Capital Partners LP ("D1") and Junto Capital Partners LP ("Junto") that in turn have invested in four intended victims of the defendants' scheme: Goldman Sachs, Alphabet (Google), J.P. Morgan and Live Nation; and (2) he formerly served as Viking's general counsel and allegedly interacted in that role with several intended victims' of the defendants' scheme.

LEGAL PRINCIPLES

A. Disqualification Generally

Pursuant to 28 U.S.C. § 455, a judge must disqualify her or himself when the judge's "impartiality might reasonably be questioned" (§ 455(a)), including, as relevant here, when the judge "knows that he . . . has a financial interest in the subject matter in controversy or in a party to the proceeding, or any other interest that could be substantially affected by the outcome of the proceeding" (§ 455(b)(4)). A district court's decision on whether to recuse itself is reviewed only "for abuse of discretion" and will "rarely" be disturbed on appeal. United States v. Wedd, 993 F.3d 104, 114 (2d Cir. 2021). However, "where the standards governing disqualification have not been met, disqualification is not optional; rather, it is prohibited." In re Aguinda, 241 F.3d 194, 201 (2d Cir. 2001). As the Second Circuit has repeatedly stated, "a

judge is as much obliged not to recuse himself when it is not called for as he is obliged to when it is." Id.

B. Timeliness is a Threshold Issue on a Section 455 Disqualification Motion

"While § 455 does not explicitly contain a timeliness requirement for the filing of a recusal claim, timeliness has been read into this section" by the Second Circuit. Polizzi v. United States, 926 F.2d 1311, 1321 (2d Cir. 1991). The timeliness of a § 455 motion is "a 'threshold' issue — i.e., one to be evaluated before matters of substance are reached." Clemmons v. Comm'r of Soc. Sec., No. 11-CV-1645 (KAM), 2011 WL 6130926, at *4 (E.D.N.Y. Dec. 8, 2011); see also Weisshaus v. Fagan, 456 F. App'x 32, 34 (2d Cir. 2012) ("The timeliness of a recusal motion is a serious threshold question.").

In order to be timely, a recusal motion must be filed "at the earliest possible moment after obtaining knowledge of facts demonstrating the basis for such a claim." Apple v. Jewish Hosp. & Med. Ctr., 829 F.2d 326, 333-34 (2d Cir. 1987); accord United States v. Lewis, No. 22-1742, 2024 WL 1756104, at *2 (2d Cir. Apr. 24, 2024); United States v. Burke, 756 F. App'x 93, 94 (2d Cir. 2019); United States v. Brinkworth, 68 F.3d 633, 639 (2d Cir. 1995). Strict adherence to the requirement of a "prompt application avoids the risk that a party is holding back a recusal application as a fall-back position in the event of adverse rulings on pending matters." In re IBM, 45 F.3d 641, 643 (2d Cir. 1995); accord Qualls v. United States, No. 07-CR-14 (DLI), 2018 WL 1513625, at *1 (E.D.N.Y. Mar. 27, 2018). As a result, the Second Circuit has held that where a defendant "fail[s] to file a timely disqualification motion," the motion is "waived." United States v. Yu-Leung, 51 F.3d 1116, 1120 (2d Cir. 1995); see also Polizzi, 926 F.2d at 1321 ("[W]e agree with the Government that [defendant] waived the claim that [the district judge] should have recused himself when he failed to timely move for such recusal pursuant to . . . 28 U.S.C. § 455"). "The timeliness requirement of motions to disqualify

and for recusal is strictly applied." Keesh v. Quick, No. 19-CV-08942 (PMH), 2022 WL 2160127, at *10 (S.D.N.Y. June 15, 2022).

In assessing whether a recusal motion is timely, courts consider whether, among other things, "(1) the movant has participated in a substantial manner in trial or pre-trial proceedings, (2) granting the motion would represent a waste of judicial resources, (3) the motion was made after the entry of judgment, and (4) the movant can demonstrate good cause for delay." Apple, 829 F.2d at 334; accord Brinkworth, 68 F.3d at 639. And while "the actual time elapsed between the events giving rise to the charge of bias or prejudice and the making of the motion is not necessarily dispositive," Apple, 829 F.2d at 333-34, courts regularly consider the length of this period when evaluating a motion to recuse, see, e.g., id. (finding a delay of two months untimely); United States v. Durrani, 835 F.2d 410, 427 (2d Cir. 1987) (delay of four months warranted denial of motion); Omega Eng'g, Inc. v. Omega, S.A., 432 F.3d 437, 448 (2d Cir. 2005) (delay of seven months rendered recusal motion untimely). In fact, "[r]ecusal motions are often denied on the basis of untimeliness when there has been only a short delay." Clemmons, 2011 WL 6130926, at *4; accord United States v. Halkbank, No. 15-CR-867 (RMB), 2020 WL 4932772, at *5 (S.D.N.Y. Aug. 24, 2020).

C. Section 455's "Safe Harbor" Provisions Expressly Include Fund Investments

Under § 455, a "financial interest" does not include an indirect interest in securities through "[o]wnership in a mutual or common investment fund that holds [such] securities . . . unless the judge participates in the management of the fund." 28 U.S.C. § 455(d)(4)(i). This provision is "a safe harbor" to allow "judges to hold securities without needing to make fine calculations of the effect of a given suit on their wealth." N.Y.C. Dev. Corp. v. Hart, 796 F.2d 976, 980 (7th Cir. 1986); accord Cent. Tel. Co. of Va. v. Sprint Commc'ns Co. of Va., 715 F.3d 501, 515 (4th Cir. 2013) ("Congress created this exception to

enable judges to hold securities without risking recusal across a broad range of cases."). The safe harbor applies without regard to the size of any investment, and "it is unnecessary and inappropriate to inquire how a case might affect the value of the fund's assets." N.Y.C. Dev. Corp., 796 F.2d at 980; accord Cent. Tel. Co., 715 F.3d at 516. Moreover, the safe-harbor provision applies to both § 455(a) and § 455(b)(4) — a "reasonable person would not question the impartiality of a judge who holds nothing but well diversified mutual funds," and permitting disqualification under either provision "would prevent § 455(d)(4)(i) from acting as a safe harbor." N.Y.C. Dev. Corp., 796 F.2d at 980; see also Cent. Tel. Co., 715 F.3d at 516 ("We note at the outset that a judge whose conduct has satisfied the § 455(d)(4)(i) safe harbor will almost certainly have complied with § 455(a) by acting in a reasonable and impartial manner.").

D. Financial Interests in Victims or Non-Parties Do Not Require Recusal

Even where the § 455(d)(4)(i) safe harbor does not apply, a judge's interest in a victim of a crime is treated differently than an interest in a party. See United States v. Pescatore, No. 05-CR-128 (TCP), 2006 WL 47451, at *9 (E.D.N.Y. Jan. 5, 2006) ("The Second Circuit has held that while even a judge's de minimis interest in a party will be grounds for automatic recusal, the same is not true of a judge's de minimis interest in a non-party."). In particular, a financial interest in a victim in a criminal case does not trigger automatic recusal under § 455(b)(4). See United States v. Lauersen, 348 F.3d 329, 336 (2d Cir. 2003) ("[W]e decline to adopt a per se rule requiring recusal in every instance where a judge has an interest in the victim of a crime."), judgment vacated on other grounds, 543 U.S. 1097 (2005); accord United States v. Gedinez, 280 F. App'x 47, 49 (2d Cir. 2008) (judge's stock ownership in victim bank did not require recusal); Reese-Thomas v. United States, No. 03-CV-1812 (FB), 2003 WL 22709080, at *2 (E.D.N.Y. Nov. 17, 2003) ("[C]ourts have held that the victim of a crime is not a party to a

criminal proceeding under § 455(b)(4), and that stock ownership in a corporate victim cannot be deemed a financial interest under that section.").[1]

Stock ownership in a victim also does not implicate § 455(a) unless "the extent of the judge's interest in the crime victim is so substantial, or the amount that the victim might recover as restitution is so substantial, that an objective observer would have a reasonable basis to doubt the judge's impartiality." Lauersen, 348 F.3d at 336-37. Ownership of a fractional percentage of a victim's total stock does not meet this threshold. See Gedinez, 280 F. App'x at 49 (ownership of 0.000091% of victim did not require recusal); see also United States v. Teman, No. 21-1920-CR, 2023 WL 3882974, at *3 (2d Cir. June 8, 2023); United States v. Ravich, 421 F.2d 1196, 1205 (2d Cir. 1970). Further, even if a claim for restitution by a victim partially owned by a judge might raise potential concerns, such concerns are eliminated where the victim does not seek restitution. See Lauersen, 348 F.3d at 338 ("Even if Judge Pauley's ownership of AXA shares had provided a basis for recusal, we see no valid reason why AXA's decision to forgo its restitution claim would not have sufficed to eliminate such a basis.").

ARGUMENT

I. The Motion is Untimely

The Court can deny the defendants' motion at the threshold because it is untimely. The defendants were required by law to file their motion at the earliest possible moment. They did not. Instead, the defendants waited until after they were convicted following a two-month

[1] See also United States v. Rogers, 119 F.3d 1377, 1384 (9th Cir. 1997) ("The victim of a crime is not a party under [§ 455(b)(4)]. The only parties in a federal criminal case are the named defendant and the United States. In addition, stock ownership in the corporate victim of a crime cannot be deemed a financial interest in the subject matter in controversy."); United States v. Nobel, 696 F.2d 231, 234-35 (3d Cir. 1982) (§ 455(b)(4) inapplicable where judge owned stock in corporate victim); United States v. Sellers, 566 F.2d 884, 887 (4th Cir. 1977) (recusal not required where judge owned stock in corporate victim).

trial and then deployed this motion as a last-ditch effort to avoid accountability and punishment. Based on the Second Circuit's precedent, as detailed above, the instant motion is untimely and should be denied on that basis alone.

Each of the factors for assessing whether a claim is timely weighs against the defendants. See Apple, 829 F.2d at 334. First, the defendants have certainly "participated in a substantial manner in trial or pre-trial proceedings." Second, in light of the substantial efforts put into the case by the Court over the prior 20 months, "granting the motion would represent a waste of judicial resources." Third, although the motion was made prior to the entry of final judgment, it was made after the defendants had been found guilty at a trial and only weeks before sentencing. And fourth, for the reasons set forth below, the defendants cannot demonstrate any good cause for the delay.

To the extent the motion is premised on Judge Komitee's investments in the Funds, those investments were a matter of public record before the beginning of this case and certainly long before trial. The defendants attempt to excuse their delay by suggesting that they learned of Judge Komitee's investments in the Funds only when Judge Komitee's 2023 annual financial disclosure was published online on or about October 2, 2024. See Mot. 2, 20. But that information had been known publicly for years — Judge Komitee's 2021 and 2022 financial disclosures (dated May 10, 2022, and July 7, 2023, respectively) both disclose his interests in the Funds. See Exs. 1, 2. The motion cites Judge Komitee's 2021 and 2022 financial disclosures — as well as his 2020 disclosure, which is not available online and is available only by request — making it plain that the defendants had access to those reports. See Mot. 17 n.24. Indeed, the defendants acknowledge that they corresponded with the Administrative Office of the United States Courts prior to October 2, 2024 to find out when the 2023 disclosure would be posted (see

Mot. 20 n.25), demonstrating that they were alert to and already investigating this claim prior to that date. See ECF Nos. 329-1, 329-2. And the defendants even admit that they began searching for Judge Komitee's 2022 financial disclosure as early as March 2024 and obtained that disclosure by at least August 27, 2024, approximately two months before they filed their recusal motion.[2] See ECF No. 329-1; see, e.g., Apple, 829 F.2d at 333-34 (finding a delay of two months untimely); Katzman v. Victoria's Secret Catalogue, 939 F. Supp. 274, 277 (S.D.N.Y. 1996) (same). There is thus no good cause for the defendants' delay in raising this claim.

Further, much of the motion is based on Judge Komitee's role and activities at Viking before becoming a judge. See Mot. 10-14, 22-26. The fact that Judge Komitee was Viking's general counsel prior to his appointment has long been a matter of public record — indeed, it is listed in his biography on the District's website.[3] Cf. HC2, Inc. v. Messer, No. 20-CV-3178 (LJL), 2022 WL 61370, at *3 n.4 (S.D.N.Y. Jan. 6, 2022) ("The Court also finds the recusal motion to be untimely as it comes over a year and a half after the start of the case and as the Court's former affiliation with the predecessor of WilmerHale has been a matter of public knowledge since I joined that firm over two decades ago." (citing cases)). And at the very first status conference in this matter, Judge Komitee noted that he reviewed the list of interested parties that the government provided ex parte and "didn't see any overlap between the people and entities listed there on the one hand, and my bio on the other. . . . Obviously, if you saw the name Viking in anything that would be meaningful." Mar. 6, 2023 Tr. 7:22-8:4. Thus, the defendants were on notice from the outset of the case of Judge Komitee's history with Viking.

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[2] The defendants are notably silent with regard to when they had access to Judge Komitee's 2020 and 2021 financial disclosures.

[3] See, e.g., U.S. Dist. Ct. E.D.N.Y., Judge Eric R. Komitee, https://www.nyed.uscourts.gov/content/judge-eric-r-komitee; see also Wikipedia, Eric R. Komitee, https://en.wikipedia.org/wiki/Eric_R._Komitee.

They cannot show good cause for their delay in raising this aspect of their motion, and indeed they do not even attempt to make such a showing.

Finally, the defendants were of course aware of the potential victims in the case. Even putting aside their personal knowledge of the facts, the defendants were charged in a detailed indictment (see ECF No. 1), and the government disclosed a list deanonymizing the entities in the indictment on April 21, 2023 (see ECF No. 55). Three of the four victims that are at the core of the defendants' instant motion — Goldman Sachs, Google and Live Nation — were included on that list. Moreover, all four of the victims referenced in the defendants' motion were included on the government's list of persons, entities and places for use in voir dire, which was filed before trial. See ECF No. 141. Thus, there can be no argument that the defendants have not long known the identities of the victims in this case.

Accordingly, the defendants' recusal motion is untimely. It should therefore be denied.

II. The Fund Investments at Issue Do Not Require Recusal Under Section 455

Even were the Court to consider the defendants' untimely motion, the defendants' claims fail on the merits. All of the challenged investments fall within the § 455(d)(4)(i) safe harbor, the indirect interests in certain victims at issue here are insubstantial in any event, and none of the past business or social relationships identified by the defendants warrant recusal. Each of the defendants' claims should therefore be rejected.

A. Judge Komitee's Investments in Various Funds Do Not Warrant Recusal

1. The § 455(d)(4)(i) Safe Harbor Applies

The defendants do not claim that Judge Komitee has directly invested in any victims but instead challenge Judge Komitee's investments in funds that, in turn, have at times invested in certain victims of the scheme. That is precisely the situation covered by the

§ 455(d)(4)(i) safe harbor. The motion for disqualification under both § 455(a) and § 455(b)(4) therefore fails. See Teman, 2023 WL 3882974, at *3 (affirming denial of recusal based on ownership of shares of "Berkshire Hathaway, which in turn owns stock in Bank of America, the victim in [the] case" because "such an ownership interest" fell within ambit of § 455(d)(4)(i)).

The defendants make three attempts to escape this conclusion. First, the defendants claim that despite the statutory language stating that the exception applies "unless the judge participates in the management of the fund," the exemption should not apply here because Judge Komitee previously participated in the management of Viking before becoming a judge. See Mot. 28. The defendants cite no authority for this claim; nor could they, as the claim makes no sense. The reason the lack of management participation matters is that it eliminates a judge's ability to control what stocks she holds at the time of a given decision. See N.Y.C. Dev. Corp., 796 F.2d at 980 (safe harbor is justified "in part because the fund may sell the stock before the judge decides the case"). The fact that a judge participated in a fund's management years before the case began therefore has no bearing on the safe harbor.

Second, the defendants assert that even where the safe harbor technically applies, a judge must consider whether her or his interest in a fund would be substantially affected by the outcome of a case. See Mot. 28. In support of this claim, the defendants cite an opinion from the Judicial Conference's Advisory Committee on Codes of Conduct (the "Advisory Committee"). See id. But the Second Circuit has held that such opinions are not authoritative interpretations of § 455. See Lauersen, 348 F.3d at 336 (declining to follow view of Advisory Committee). And the available judicial precedents reject such an analysis, holding that "§ 455(d)(4)(i) eliminates any inquiry into the size of the likely effect of a decision on the value of securities held through a mutual fund." N.Y.C. Dev. Corp., 796 F.2d at 980; accord Cent. Tel.

Co., 715 F.3d at 516. In any event, as discussed below, there is no basis to conclude that the outcome of the proceedings could have any effect, let alone a substantial effect, on the value of Judge Komitee's investments. This claim therefore also fails.

Third, the defendants claim that the Funds are not "mutual or common investment fund[s]" for purposes of the safe harbor. See Mot. 28-29. The defendants purport to reach this conclusion by applying six factors set forth in an Advisory Committee opinion, specifically: "(1) the number of participants in the fund; (2) the size and diversity of fund investments; (3) the ability of participants to direct their investments; (4) the ease of access to and frequency of information provided about the fund portfolio; (5) the pace of turnover in fund investments; and (6) any ownership interest investors have in the individual assets of the fund." Mot. 29. As noted, the Second Circuit has not treated the Advisory Committee's opinions as authoritative. See Lauersen, 348 F.3d at 336. But even assuming these are the correct factors to consider, they weigh in favor of applying the safe harbor under the facts of this case. See Cellspin Soft, Inc. v. Fitbit, Inc., No. 17-CV-5928 (YGR), 2023 WL 2176758, at *8 (N.D. Cal. Feb. 15, 2023) (treating above-listed factors as "not binding" but "instructive").

Number of Participants in the Fund. As the defendants acknowledge, each of the Funds has hundreds of participants. See Mot. 29 n.30. Although the defendants argue that this factor nevertheless weighs against applying the safe harbor, they cite no authority for that proposition. The sole case that has declined to apply § 455(d)(4)(i) based in part on the number of participants in the fund involved far fewer participants — only 24 — suggesting that hundreds of participants in facts weighs in favor of the safe harbor. See NEC Corp. v. Intel Corp., 654 F. Supp. 1256, 1258 n.1 (N.D. Cal. 1987) (§ 455(d)(4)(i) did not apply to an investment fund where "membership is limited to 24 members and decisions to buy or sell securities are made by vote of

a majority of the voting power present at the meeting"), order vacated, appeal dismissed sub nom. NEC Corp. v. U.S. Dist. Ct. for N. Dist. of California, 835 F.2d 1546 (9th Cir. 1988).

Size and Diversity of Fund Investments. The defendants do not dispute that the Funds are all large, with each managing billions of dollars. See Mot. 4, 5 n.9. But the defendants assert that the Funds lack diversity, claiming that "the funds concentrate their positions in a few public stocks, explicitly employing 'limited diversification.'" Mot. 29. The defendants are correct that the Funds' firm brochures identify the potential for limited diversification as a risk factor, but the actual disclosed assets of the Funds' advisors suggest that they are sufficiently diversified and in particular that the victims in this case make up a small fraction of each the advisors' portfolios. According to the Form 13Fs for each of the Funds' advisors for the periods since the beginning of 2023: (1) Viking has held 13F securities in between 80 and 86 different issuers each quarter, with no individual victim's securities ever making up more than 2.34% of the total 13F securities in a given quarter and the consolidated total of victims' securities never rising above 2.34% of the total 13F securities in a given quarter; (2) D1 has held 13F securities in between 29 and 39 different issuers each quarter, with no victim's securities ever making up more than 5.66% of the total 13F securities in a given quarter and the consolidated total of victims' securities never rising above 9.98% of the total 13F securities in a given quarter; and (3) Junto has held 13F securities in between 69 and 81 different issuers each quarter, with no victim's securities ever making up more than 3.94% of the total 13F securities in a given quarter and the consolidated total of victims' securities never rising above 5.28% of the total 13F securities in a given quarter. By comparison, as noted above, the Second Circuit has held that the safe harbor applied where a judge held an indirect interest in Bank of America through investments in Berkshire Hathaway, see Teman, 2023 WL 3882974, at *3, and

according to Berkshire Hathaway's Form 13F for the period ending June 30, 2021 (the last filing prior to the district court's entry of judgment in that case), Bank of America shares alone then constituted over 14% of Berkshire Hathaway's 13F holdings. The Funds are therefore sufficiently diversified that "a change in the value of [a victim's] stock [would] have a small effect on the fund as a whole," thus weighing in favor of the safe harbor. N.Y.C. Dev. Corp., 796 F.2d at 980.

Ability of Participants to Direct Investments. The defendants note that the Funds are "actively and aggressively managed" (Mot. 29), but the defendants make no claim that any of the Funds' participants have any ability to direct their investments. This factor therefore weighs in favor of the safe harbor.

Ease of Access to, and Frequency of, Information About the Fund Portfolio. The defendants state that some of the Funds provide monthly reports regarding their positions and some of the Funds provide weekly reports of the Funds' performance. See Mot. 29-30. While the defendants suggest this is unusually frequent, they offer no basis for that claim. For example, broad-based ETFs such as the SPDR S&P 500 ETF and the Schwab US Broad Market ETF — paradigmatic examples of common investment funds — publish their weighted holdings on a daily basis. See State Street Global Advs., SPDR S&P 500 ETF Trust, https://www.ssga.com/us/en/individual/library-content/products/fund-data/etfs/us/holdings-daily-us-en-spy.xlsx; Charles Schwab, Schwab US Broad Market ETF SCHB, https://www.schwab.wallst.com/schwab/Prospect/research/etfs/schwabETF/index.asp?type=holdings&symbol=SCHB. Thus, even accepting the defendants' claims as true, Judge Komitee has less visibility into the current positions of the Funds than investors in many popular diversified ETFs, weighing in favor of the safe harbor.

Pace of Turnover in Fund Investments. The defendants acknowledge that the Funds have rapid turnover in their portfolios, as reflected in the Form 13Fs. See Mot. 30. The defendants appear to believe that this weighs against the safe harbor, but the opposite is true. The more rapid the turnover, the less ability a judge would have to predict what effect a given case outcome would have on her or his holdings because it is less possible to predict what those holdings would be by the time the case is decided. See N.Y.C. Dev. Corp., 796 F.2d at 980 (safe harbor is justified "in part because the fund may sell the stock before the judge decides the case"). For example, while some of the Funds held positions in Alphabet or Goldman Sachs for portions of the case, none held positions in those companies as of the most recent 13F filings (for the second quarter of 2024). This factor therefore weighs in favor of the safe harbor.

Investors' Ownership Interest in the Individual Assets of the Fund. The defendants state that the Funds' advisors offer investment opportunities to individual investors (Mot. 29), but they do not claim that Judge Komitee, or any other investor, has an ownership interest in the individual assets of the fund by virtue of his fund investment. This factor therefore also weighs in favor of the safe harbor.

Accordingly, all of the factors set forth by the Advisory Committee weigh in favor of the safe harbor. Judge Komitee's investments in the Funds therefore categorically do not warrant recusal under either § 455(a) or § 455(b)(4).[4]

[4] The defendants call attention to Judge Komitee's service as a director of the Viking Foundation, a charitable entity affiliated with Viking, but do not argue that this service is a basis for recusal. See Mot. 5-6. In any event, such service is covered by a separate safe harbor providing that an "office in an educational, religious, charitable, fraternal, or civic organization is not a 'financial interest' in securities held by the organization." 28 U.S.C. § 455(d)(4)(ii).

2. Any Interest in the Victims is Insubstantial

Even if the safe harbor did not apply (and it does), the purported interests Judge Komitee has in the victims would not warrant recusal even if he directly owned stock in those companies. As set forth below, even using the absolute highest "pro rata beneficial interest" for each victim ascribed by the defendants to Judge Komitee during the pendency of the case, the amounts invested by Judge Komitee in each of these companies is a tiny fraction of each company's overall market capitalization.

Company	Highest Ascribed Pro-Rata Beneficial Interest (see Mot. Ex. B tbl. 10)	Market Capitalization at Relevant Time[5]	Ownership Percentage
Alphabet	$513 thousand	$1.765 trillion	0.000029%
Goldman Sachs	$214 thousand	$136 billion	0.00016%
J.P. Morgan	$545 thousand	$421 billion	0.00013%
Live Nation	$318 thousand	$21.7 billion	0.0015%

The Second Circuit has held that even direct ownership percentages in corporate victims many times higher than those here do not amount to a substantial interest and cannot justify recusal. See Ravich, 421 F.2d at 1205 (interest from ownership of 0.0072% of a victim's shares "not merely unsubstantial but nonexistent"); see also Teman, 2023 WL 3882974, at *3 (ownership of "approximately 0.00075 percent of the [victim] bank's $265 billion market capitalization" did not require recusal). The defendants ignore these cases, pointing the Court instead to Litovich v. Bank of America, Corp., 106 F.4th 218, 228-29 (2d Cir. 2024). See Mot. 15-16, 18, 21-22, 30-32. But Litovich involved an investment in a party to the case, a situation

[5] All market capitalization data obtained from YChart.com.

subject to entirely different rules and precedents than those governing investments in victims. See Pescatore, 2006 WL 47451, at *9. Litovich is thus wholly inapplicable.

Moreover, and in any event, the Second Circuit has held that any possible basis for recusal is eliminated where a victim does not seek restitution. See Lauersen, 348 F.3d at 338 ("Even if Judge Pauley's ownership of AXA shares had provided a basis for recusal, we see no valid reason why AXA's decision to forgo its restitution claim would not have sufficed to eliminate such a basis."). Here, none of the victims in which Judge Komitee has an indirect interest ultimately invested in Ozy, and none have sought restitution at this time. That fact standing alone is sufficient to reject the defendants' claims that Judge Komitee's investments require recusal.

B. Judge Komitee's Prior Relationships with Victims Do Not Warrant Recusal

The defendants' arguments that recusal is required because Judge Komitee had business relationships with victims as a result of his role at Viking prior to becoming a judge fare no better. See Mot. 22-26. Although the defendants again do not cite the applicable law, the Second Circuit has held that a social or business relationship with a victim from years in the past does not require recusal. See United States v. Lovaglia, 954 F.2d 811, 815-17 (2d Cir. 1992) (recusal not required where judge formerly represented victim company, had socialized with company's owners, and had been involved in a restaurant business with one of the company's owners).

Further, while the defendants single out Judge Komitee's friendship with one former Goldman Sachs employee (see Mot. 10-11), there is no case law suggesting that a friendship with a victim's employee is a basis for recusal. To the contrary, the law is that even a friendship with a party's attorney in the case at bar is not a basis for recusal, absent unusual circumstances. See United States v. Murphy, 768 F.2d 1518, 1537 (7th Cir. 1985) ("Many

courts therefore have held that a judge need not disqualify himself just because a friend — even a close friend — appears as a lawyer.").[6]

Thus, none of the relationships identified by the defendants form a basis for recusal. The motion should be denied.

CONCLUSION

For the reasons set forth above, the defendants' disqualification motion should be denied in its entirety.

Dated: Brooklyn, New York
November 1, 2024

BREON PEACE
United States Attorney
Eastern District of New York

By: /s/
Jonathan Siegel
Gillian Kassner
Dylan A. Stern
Assistant U.S. Attorneys
(718) 254-6293/6224/6213

[6] The defendants speculate that this individual was somehow involved in the case. See Mot. 11. While the government cannot speak to Goldman Sachs's internal workings, the government has no knowledge of this individual's involvement in the case.

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FINANCIAL DISCLOSURE REPORT FOR CALENDAR YEAR 2021

Report Required by the Ethics in Government Act of 1978 (5 U.S.C. app. §§ 101-111)

1. Person Reporting (last name, first, middle initial)	2. Court or Organization	3. Date of Report
Komitee , Eric R.	US District Court - Eastern District of New York	5/10/2022
4. Title (Article III judges indicate active or senior status; magistrate judges indicate full- or part-time)	**5a. Report Type (check appropriate type)**	**6. Reporting Period**
ACTIVE STATUS	☐ Nomination Date ☐ Initial ☑ Annual ☐ Final **5b.** ☐ Amended Report	01/01/2021 **to** 12/31/2021
7. Chambers or Office Address		
255 CADMAN PLAZA EAST BROOKLYN, NY 11201		

IMPORTANT NOTES: ***The instructions accompanying this form must be followed. Complete all parts, checking the NONE box for each part where you have no reportable information.***

I. POSITIONS. *(Reporting individual only; see Guide to Judiciary Policy, Volume 2D, Ch. 3, § 345 Trustees, Executors, Administrators, and Custodians; § 350 Power of Attorney; § 355 Outside Positions.)*

☐ NONE *(No reportable positions.)*

	POSITION	NAME OF ORGANIZATION/ENTITY
1.	DIRECTOR	VIKING GLOBAL FOUNDATION INC. (NON-PROFIT CHARITABLE ORGANIZATION)
2.		
3.		
4.		
5.		

II. AGREEMENTS. *(Reporting individual only; see Guide to Judiciary Policy, Volume 2D, Ch. 3, § 340 Agreements and Arrangements)*

☑ NONE *(No reportable agreements.)*

	DATE	PARTIES AND TERMS
1.		
2.		
3.		

Name of Person Reporting	Date of Report
Komitee , Eric R.	5/10/2022

III. NON-INVESTMENT INCOME. *(Reporting individual and spouse; see Guide to Judiciary Policy, Volume 2D, Ch. 3, § 320 Income; § 360 Spouses and Dependent Children.)*

A. Filer's Non-Investment Income

☑ NONE *(No reportable non-investment income.)*

	DATE	SOURCE AND TYPE	INCOME (yours, not spouse's)
1.			
2.			
3.			
4.			

B. Spouse's Non-Investment Income - *If you were married during any portion of the reporting year, complete this section.*

(Dollar amount not required except for honoraria.)

☑ NONE *(No reportable non-investment income.)*

	DATE	SOURCE
1.		
2.		
3.		
4.		

IV. REIMBURSEMENTS *-- transportation, lodging, food, entertainment.*

(Includes those to spouse and dependent children; see Guide to Judiciary Policy, Volume 2D, Ch. 3, § 330 Gifts and Reimbursements; § 360 Spouses and Dependent Children.)

☑ NONE *(No reportable reimbursements.)*

	SOURCE	DATES	LOCATION	PURPOSE	ITEMS PAID OR PROVIDED
1.					
2.					
3.					
4.					
5.					

FINANCIAL DISCLOSURE REPORT
Page 3 of 8

Name of Person Reporting	Date of Report
Komitee , Eric R.	5/10/2022

V. GIFTS. *(Includes those to spouse and dependent children; see Guide to Judiciary Policy, Volume 2D, Ch. 3, § 330 Gifts and Reimbursements; § 360 Spouses and Dependent Children.)*

☑ NONE *(No reportable gifts.)*

	SOURCE	DESCRIPTION	VALUE
1.			
2.			
3.			
4.			
5.			

VI. LIABILITIES. *(Includes those of spouse and dependent children; see Guide to Judiciary Policy, Volume 2D, Ch. 3, § 335 Liabilities; § 360 Spouses and Dependent Children.)*

☐ NONE *(No reportable liabilities.)*

	CREDITOR	DESCRIPTION	VALUE CODE
1.	JP MORGAN	VISA CARD	L
2.	AMERICAN EXPRESS	CREDIT CARD	J
3.	JP MORGAN	CREDIT CARD	J
4.			
5.			

FINANCIAL DISCLOSURE REPORT
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Name of Person Reporting	Date of Report
Komitee , Eric R.	5/10/2022

VII. INVESTMENTS and TRUSTS *-- income, value, transactions (Includes those of spouse and dependent children; see Guide to Judiciary Policy, Volume 2D, Ch. 3, § 310 Reporting Thresholds for Assets; § 312 Types of Reportable Property; § 315 Interests in Property; § 320 Income; § 325 Purchases, Sales, and Exchanges; § 360 Spouses and Dependent Children; § 365 Trusts, Estates, and Investment Funds.)*

☐ NONE *(No reportable income, assets, or transactions.)*

A	B		C		D				
Description of Assets (including trust assets)	Income during reporting period		Gross value at end of reporting period		Transactions during reporting period				
Place "(X)" after each asset exempt from prior disclosure	(1) Amount Code 1 (A-H)	(2) Type (e g , div , rent, or int)	(1) Value Code 2 (J-P)	(2) Value Method Code 3 (Q-W)	(1) Type (e g , buy, sell, redemption)	(2) Date mm/dd/yy	(3) Value Code 2 (J-P)	(4) Gain Code 1 (A-H)	
1. Viking Global Equities LP	G	Dividend	P2	T					
2. Viking Global Opportunities LP	G	Dividend	P1	T					
3. D1 Capital Partners Onshore LP	H1	Dividend	P2	T					
4. Junto Capital Partners LP	H1	Dividend	P2	T	Redeemed (part)	10/01/21	O		
5. Lead Edge Capital QP II, LP	D	Dividend			Redeemed	03/11/21	K		
6. Warlander Asset Management LP	E	Dividend			Redeemed	05/31/21	O		
7. Invesco QQQ Trust	A	Dividend	P1	T					
8. Ishares Russel 2000 ETF		None	L	T					
9. Lord Abbett Floating Rate A Fund		None	K	T					
10. Schwab US TIPS ETF	D	Dividend	N	T					
11. SPDR S&P 500 ETF	D	Dividend	O	T					
12. Vanguard FTSE All World EX-US ETF		None	J	T					
13. SPDR Gold Shares ETF		None	N	T					
14. JP Morgan Unallocated Gold Fund		None	N	T					
15. iShares MSCI EAFE ETF		None	K	T					
16. SPDR Dow Jones ETF		None	K	T					
17. Invesco Diversified Dividend Fund		None	M	T					

1 Income Gain Codes: (See Columns B1 and D4)
A =$1,000 or less B =$1,001 - $2,500 C =$2,501 - $5,000 D =$5,001 - $15,000 E =$15,001 - $50,000
F =$50,001 - $100,000 G =$100,001 - $1,000,000 H1 =$1,000,001 - $5,000,000 H2 =More than $5,000,000

2 Value Codes (See Columns C1 and D3)
J =$15,000 or less K =$15,001 - $50,000 L =$50,001 - $100,000 M =$100,001 - $250,000
N =$250,001 - $500,000 O =$500,001 - $1,000,000 P1 =$1,000,001 - $5,000,000 P2 =$5,000,001 - $25,000,000
P3 =$25,000,001 - $50,000,000 P4 =More than $50,000,000

3 Value Method Codes (See Column C2)
Q =Appraisal R =Cost (Real Estate Only) S =Assessment T =Cash Market
U =Book Value V =Other W =Estimated

FINANCIAL DISCLOSURE REPORT
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Name of Person Reporting	Date of Report
Komitee , Eric R.	5/10/2022

VII. INVESTMENTS and TRUSTS *-- income, value, transactions (Includes those of spouse and dependent children; see Guide to Judiciary Policy, Volume 2D, Ch. 3, § 310 Reporting Thresholds for Assets; § 312 Types of Reportable Property; § 315 Interests in Property; § 320 Income; § 325 Purchases, Sales, and Exchanges; § 360 Spouses and Dependent Children; § 365 Trusts, Estates, and Investment Funds.)*

☐ NONE *(No reportable income, assets, or transactions.)*

A	B		C		D				
Description of Assets (including trust assets)	Income during reporting period		Gross value at end of reporting period		Transactions during reporting period				
Place "(X)" after each asset exempt from prior disclosure	(1) Amount Code 1 (A-H)	(2) Type (e g , div , rent, or int)	(1) Value Code 2 (J-P)	(2) Value Method Code 3 (Q-W)	(1) Type (e g , buy, sell, redemption)	(2) Date mm/dd/yy	(3) Value Code 2 (J-P)	(4) Gain Code 1 (A-H)	
18. iShares S&P 500 Index Fund		None	M	T					
19. Clearbridge Large Cap Growth Fund		None	L	T					
20. iShares Russell Mid Cap Index Fund		None	L	T					
21. Delaware Small Cap Core Fund		None	L	T					
22. Invesco Asia Pacific Growth Fund		None	L	T					
23. Nuveen Real Estate Securities Fund		None	L	T					
24. Lehman Bros HLD VAR 2XXX	A	Distribution	J	T					
25. Vanguard S/T Investment - VFSTX		None	K	T					
26. iShares MSCI Emerging Markets - EEM	A	Dividend	J	T					
27. NY 529 Developed Markets Index Portfolio		None	L	T					
28. NY 529 Mid-Cap Stock Index Portfolio		None	M	T					
29. NY 529 Small-Cap Stock Index Portfolio		None	M	T					
30. NY 529 Inflation Protected Securities Portfolio		None	L	T					
31. iShares MSCI China ETF	D	Dividend	O	T					
32. Tesla (TSLA) stock		None	J	T					
33. US Treasury Bonds	D	Interest	O	T					
34. FINE TONY OUNCES OF UNALLOCATED GOLD		None	O	T	Buy (add'l)	05/06/21	O		

1 Income Gain Codes: (See Columns B1 and D4)	A =$1,000 or less	B =$1,001 - $2,500	C =$2,501 - $5,000	D =$5,001 - $15,000	E =$15,001 - $50,000
	F =$50,001 - $100,000	G =$100,001 - $1,000,000	H1 =$1,000,001 - $5,000,000	H2 =More than $5,000,000	
2 Value Codes (See Columns C1 and D3)	J =$15,000 or less	K =$15,001 - $50,000	L =$50,001 - $100,000	M =$100,001 - $250,000	
	N =$250,001 - $500,000	O =$500,001 - $1,000,000	P1 =$1,000,001 - $5,000,000	P2 =$5,000,001 - $25,000,000	
	P3 =$25,000,001 - $50,000,000		P4 =More than $50,000,000		
3 Value Method Codes (See Column C2)	Q =Appraisal	R =Cost (Real Estate Only)	S =Assessment	T =Cash Market	
	U =Book Value	V =Other	W =Estimated		

FINANCIAL DISCLOSURE REPORT
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Name of Person Reporting	Date of Report
Komitee , Eric R.	5/10/2022

VII. INVESTMENTS and TRUSTS *-- income, value, transactions (Includes those of spouse and dependent children; see Guide to Judiciary Policy, Volume 2D, Ch. 3, § 310 Reporting Thresholds for Assets; § 312 Types of Reportable Property; § 315 Interests in Property; § 320 Income; § 325 Purchases, Sales, and Exchanges; § 360 Spouses and Dependent Children; § 365 Trusts, Estates, and Investment Funds.)*

☐ NONE *(No reportable income, assets, or transactions.)*

A Description of Assets (including trust assets) Place "(X)" after each asset exempt from prior disclosure	B Income during reporting period (1) Amount Code 1 (A-H)	B (2) Type (e g , div , rent, or int)	C Gross value at end of reporting period (1) Value Code 2 (J-P)	C (2) Value Method Code 3 (Q-W)	D Transactions during reporting period (1) Type (e g , buy, sell, redemption)	D (2) Date mm/dd/yy	D (3) Value Code 2 (J-P)	D (4) Gain Code 1 (A-H)	
35. GAMESTOP CORP - CLASS A		None	J	T					
36. JPM MANGAED INCOME FUND		None	O	T					
37. JPM FLOAT RATE INC.		None	L	T					
38. APPLE INC.	A	Dividend	J	T					
39. NOVOZYMES INC.		None	K	T					
40. TENCENT MUSIC ENTERTAINMENT		None	N	T					
41. BITCOIN (BTC)		None	N	T	Buy	02/15/21	M		
42.									
43.									
44.									
45.									

1 Income Gain Codes: (See Columns B1 and D4)	A =$1,000 or less	B =$1,001 - $2,500	C =$2,501 - $5,000	D =$5,001 - $15,000	E =$15,001 - $50,000
	F =$50,001 - $100,000	G =$100,001 - $1,000,000	H1 =$1,000,001 - $5,000,000	H2 =More than $5,000,000	
2 Value Codes (See Columns C1 and D3)	J =$15,000 or less	K =$15,001 - $50,000	L =$50,001 - $100,000	M =$100,001 - $250,000	
	N =$250,001 - $500,000	O =$500,001 - $1,000,000	P1 =$1,000,001 - $5,000,000	P2 =$5,000,001 - $25,000,000	
	P3 =$25,000,001 - $50,000,000		P4 =More than $50,000,000		
3 Value Method Codes (See Column C2)	Q =Appraisal	R =Cost (Real Estate Only)	S =Assessment	T =Cash Market	
	U =Book Value	V =Other	W =Estimated		

VIII. ADDITIONAL INFORMATION OR EXPLANATIONS. *(Indicate part of report.)*

Name of Person Reporting	Date of Report
Komitee , Eric R.	5/10/2022

IX. CERTIFICATION.

I certify that all information given above (including information pertaining to my spouse and minor or dependent children, if any) is accurate, true, and complete to the best of my knowledge and belief, and that any information not reported was withheld because it met applicable statutory provisions permitting non-disclosure.

I further certify that earned income from outside employment and honoraria and the acceptance of gifts which have been reported are in compliance with the provisions of 5 U.S.C. app. § 501 et. seq., 5 U.S.C. § 7353, and Judicial Conference regulations.

Signature: s/ Eric R. Komitee

NOTE: ANY INDIVIDUAL WHO KNOWINGLY AND WILLFULLY FALSIFIES OR FAILS TO FILE THIS REPORT MAY BE SUBJECT TO CIVIL AND CRIMINAL SANCTIONS (5 U.S.C. app. § 104)

Committee on Financial Disclosure
Administrative Office of the United States Courts
Suite G-330
One Columbus Circle, N.E.
Washington, D.C. 20544

AO 10
Rev. 3/2023

FINANCIAL DISCLOSURE REPORT FOR CALENDAR YEAR 2022

Report Required by the Ethics in Government Act of 1978 (5 U.S.C. app. §§ 13101-13111)

1. Person Reporting (last name, first, middle initial)	2. Court or Organization	3. Date of Report
Komitee , Eric R.	US District Court - Eastern District of New York	7/07/2023
4. Title (Article III judges indicate active or senior status; magistrate judges indicate full- or part-time)	**5a. Report Type (check appropriate type)**	**6. Reporting Period**
ACTIVE STATUS	☐ Nomination Date ☐ Initial ☑ Annual ☐ Final **5b.** ☐ Amended Report	01/01/2022 **to** 12/31/2022
7. Chambers or Office Address		
255 CADMAN PLAZA EAST BROOKLYN, NY 11201		

IMPORTANT NOTES: ***The instructions accompanying this form must be followed. Complete all parts, checking the NONE box for each part where you have no reportable information.***

I. POSITIONS. *(Reporting individual only; see Guide to Judiciary Policy, Volume 2D, Ch. 3, § 345 Trustees, Executors, Administrators, and Custodians; § 350 Power of Attorney; § 355 Outside Positions.)*

☐ NONE *(No reportable positions.)*

	POSITION	NAME OF ORGANIZATION/ENTITY
1.	DIRECTOR	VIKING GLOBAL FOUNDATION INC. (NON-PROFIT CHARITABLE ORGANIZATION)
2.		
3.		
4.		
5.		

II. AGREEMENTS. *(Reporting individual only; see Guide to Judiciary Policy, Volume 2D, Ch. 3, § 340 Agreements and Arrangements)*

☑ NONE *(No reportable agreements.)*

	DATE	PARTIES AND TERMS
1.		
2.		
3.		

III. NON-INVESTMENT INCOME. *(Reporting individual and spouse; see Guide to Judiciary Policy, Volume 2D, Ch. 3, § 320 Income; § 360 Spouses and Dependent Children.)*

A. Filer's Non-Investment Income

☑ NONE *(No reportable non-investment income.)*

	DATE	SOURCE AND TYPE	INCOME (yours, not spouse's)
1.			
2.			
3.			
4.			

B. Spouse's Non-Investment Income - *If you were married during any portion of the reporting year, complete this section.*

(Dollar amount not required except for honoraria.)

☑ NONE *(No reportable non-investment income.)*

	DATE	SOURCE
1.		
2.		
3.		
4.		

IV. REIMBURSEMENTS *-- transportation, lodging, food, entertainment.*

(Includes those to spouse and dependent children; see Guide to Judiciary Policy, Volume 2D, Ch. 3, § 330 Gifts and Reimbursements; § 360 Spouses and Dependent Children.)

☐ NONE *(No reportable reimbursements.)*

	SOURCE	DATES	LOCATION	PURPOSE	ITEMS PAID OR PROVIDED
1.	RODEL INSTITUTE	September 15 - 19, 2022	Sun Valley, Idaho	Seminar on Judicial Leadership	Transportation & Hotel
2.					
3.					
4.					
5.					

FINANCIAL DISCLOSURE REPORT
Page 3 of 10

Name of Person Reporting	Date of Report
Komitee , Eric R.	7/07/2023

V. GIFTS. *(Includes those to spouse and dependent children; see Guide to Judiciary Policy, Volume 2D, Ch. 3, § 330 Gifts and Reimbursements; § 360 Spouses and Dependent Children.)*

☑ NONE *(No reportable gifts.)*

	SOURCE	DESCRIPTION	VALUE
1.			
2.			
3.			
4.			
5.			

VI. LIABILITIES. *(Includes those of spouse and dependent children; see Guide to Judiciary Policy, Volume 2D, Ch. 3, § 335 Liabilities; § 360 Spouses and Dependent Children.)*

☐ NONE *(No reportable liabilities.)*

	CREDITOR	DESCRIPTION	VALUE CODE
1.	JP MORGAN	VISA CARD	L
2.			
3.			
4.			
5.			

FINANCIAL DISCLOSURE REPORT
Page 4 of 10

Name of Person Reporting	Date of Report
Komitee , Eric R.	7/07/2023

VII. INVESTMENTS and TRUSTS *-- income, value, transactions (Includes those of spouse and dependent children; see Guide to Judiciary Policy, Volume 2D, Ch. 3, § 310 Reporting Thresholds for Assets; § 312 Types of Reportable Property; § 315 Interests in Property; § 320 Income; § 325 Purchases, Sales, and Exchanges; § 360 Spouses and Dependent Children; § 365 Trusts, Estates, and Investment Funds.)*

☐ NONE *(No reportable income, assets, or transactions.)*

A Description of Assets (including trust assets) Place "(X)" after each asset exempt from prior disclosure	B Income during reporting period (1) Amount Code 1 (A-H)	B (2) Type (e g , div , rent, or int)	C Gross value at end of reporting period (1) Value Code 2 (J-P)	C (2) Value Method Code 3 (Q-W)	D Transactions during reporting period (1) Type (e g , buy, sell, redemption)	D (2) Date mm/dd/yy	D (3) Value Code 2 (J-P)	D (4) Gain Code 1 (A-H)	
1. Viking Global Equities LP	A	Dividend	P2	T	Distributed (part)	04/01/22	O		
2. Viking Global Opportunities LP	G	Dividend	P1	T					
3. D1 Capital Partners Onshore LP	A	Dividend	P2	T	Distributed (part)	01/28/22	P1		
4.					Distributed (part)	04/26/22	P1		
5.					Distributed (part)	07/25/22	N		
6. Junto Capital Partners LP	G	Dividend	P2	T					
7. 151 Baltic ST JV LLC	A	Dividend	L	T	Buy	08/16/22	L		
8. Invesco QQQ Trust	D	Dividend	O	T	Buy (add'l)	05/11/22	L		
9.					Sold (part)	05/18/22	L	A	
10. Ishares Russel 2000 ETF		None	L	T					
11. Lord Abbett Floating Rate A Fund		None	K	T					
12. Schwab US TIPS ETF	E	Dividend	M	T					
13. SPDR S&P 500 ETF	D	Dividend	P1	T	Buy (add'l)	02/23/22	K		
14.					Sold (part)	05/18/22	L	D	
15. Vanguard FTSE All World EX-US ETF		None	J	T					
16. SPDR Gold Shares ETF		None	N	T					
17. JP Morgan Unallocated Gold Fund		None	N	T					

1 Income Gain Codes: (See Columns B1 and D4)	A =$1,000 or less F =$50,001 - $100,000	B =$1,001 - $2,500 G =$100,001 - $1,000,000	C =$2,501 - $5,000 H1 =$1,000,001 - $5,000,000	D =$5,001 - $15,000 H2 =More than $5,000,000	E =$15,001 - $50,000
2 Value Codes (See Columns C1 and D3)	J =$15,000 or less N =$250,001 - $500,000 P3 =$25,000,001 - $50,000,000	K =$15,001 - $50,000 O =$500,001 - $1,000,000	L =$50,001 - $100,000 P1 =$1,000,001 - $5,000,000 P4 =More than $50,000,000	M =$100,001 - $250,000 P2 =$5,000,001 - $25,000,000	
3 Value Method Codes (See Column C2)	Q =Appraisal U =Book Value	R =Cost (Real Estate Only) V =Other	S =Assessment W =Estimated	T =Cash Market	

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VII. INVESTMENTS and TRUSTS *-- income, value, transactions (Includes those of spouse and dependent children; see Guide to Judiciary Policy, Volume 2D, Ch. 3, § 310 Reporting Thresholds for Assets; § 312 Types of Reportable Property; § 315 Interests in Property; § 320 Income; § 325 Purchases, Sales, and Exchanges; § 360 Spouses and Dependent Children; § 365 Trusts, Estates, and Investment Funds.)*

☐ NONE *(No reportable income, assets, or transactions.)*

A	B		C		D				
Description of Assets (including trust assets)	Income during reporting period		Gross value at end of reporting period		Transactions during reporting period				
Place "(X)" after each asset exempt from prior disclosure	(1) Amount Code 1 (A-H)	(2) Type (e g , div , rent, or int)	(1) Value Code 2 (J-P)	(2) Value Method Code 3 (Q-W)	(1) Type (e g , buy, sell, redemption)	(2) Date mm/dd/yy	(3) Value Code 2 (J-P)	(4) Gain Code 1 (A-H)	
18. iShares MSCI EAFE ETF		None	K	T	Sold (part)	05/27/22	J		
19. SPDR Dow Jones ETF		None	K	T					
20. Invesco Diversified Dividend Fund		None	M	T					
21. iShares S&P 500 Index Fund		None	M	T					
22. Clearbridge Large Cap Growth Fund		None	L	T					
23. iShares Russell Mid Cap Index Fund		None	L	T					
24. Delaware Small Cap Core Fund		None	L	T					
25. Invesco Asia Pacific Growth Fund		None	L	T					
26. Nuveen Real Estate Securities Fund		None	L	T					
27. Lehman Bros HLD VAR 2XXX	A	Distribution	J	T					
28. Vanguard S/T Investment - VFSTX		None	K	T					
29. iShares MSCI Emerging Markets - EEM	A	Dividend	J	T					
30. NY 529 Developed Markets Index Portfolio		None	L	T					
31. NY 529 Mid-Cap Stock Index Portfolio		None	M	T					
32. NY 529 Small-Cap Stock Index Portfolio		None	M	T					
33. NY 529 Inflation Protected Securities Portfolio		None	L	T					
34. iShares MSCI China ETF	D	Dividend	O	T					

1 Income Gain Codes: (See Columns B1 and D4)	A =$1,000 or less	B =$1,001 - $2,500	C =$2,501 - $5,000	D =$5,001 - $15,000	E =$15,001 - $50,000
	F =$50,001 - $100,000	G =$100,001 - $1,000,000	H1 =$1,000,001 - $5,000,000	H2 =More than $5,000,000	
2 Value Codes (See Columns C1 and D3)	J =$15,000 or less	K =$15,001 - $50,000	L =$50,001 - $100,000	M =$100,001 - $250,000	
	N =$250,001 - $500,000	O =$500,001 - $1,000,000	P1 =$1,000,001 - $5,000,000	P2 =$5,000,001 - $25,000,000	
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VII. INVESTMENTS and TRUSTS *-- income, value, transactions (Includes those of spouse and dependent children; see Guide to Judiciary Policy, Volume 2D, Ch. 3, § 310 Reporting Thresholds for Assets; § 312 Types of Reportable Property; § 315 Interests in Property; § 320 Income; § 325 Purchases, Sales, and Exchanges; § 360 Spouses and Dependent Children; § 365 Trusts, Estates, and Investment Funds.)*

☐ NONE *(No reportable income, assets, or transactions.)*

A Description of Assets (including trust assets) Place "(X)" after each asset exempt from prior disclosure	B Income during reporting period (1) Amount Code 1 (A-H)	B (2) Type (e g , div , rent, or int)	C Gross value at end of reporting period (1) Value Code 2 (J-P)	C (2) Value Method Code 3 (Q-W)	D Transactions during reporting period (1) Type (e g , buy, sell, redemption)	D (2) Date mm/dd/yy	D (3) Value Code 2 (J-P)	D (4) Gain Code 1 (A-H)	
35. US Treasury Bonds	D	Interest	O	T					
36. FINE TONY OUNCES OF UNALLOCATED GOLD		None	O	T					
37. GAMESTOP CORP - CLASS A		None	J	T	Buy (add'l)	01/05/22	L		
38.					Sold (part)	01/05/22	L	D	
39.					Buy (add'l)	01/18/22	L		
40.					Sold (part)	01/18/22	M	F	
41.					Buy (add'l)	03/11/22	M		
42.					Sold (part)	03/11/22	M	D	
43.					Buy (add'l)	03/14/22	M		
44.					Sold (part)	03/14/22	M	F	
45.					Buy (add'l)	03/28/22	L		
46.					Sold (part)	03/28/22	L		
47.					Buy (add'l)	05/25/22	N		
48.					Sold (part)	05/25/22	N	D	
49.					Buy (add'l)	07/19/22	M		
50.					Sold (part)	07/19/22	M		
51.					Buy (add'l)	12/05/22	M		

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	F =$50,001 - $100,000	G =$100,001 - $1,000,000	H1 =$1,000,001 - $5,000,000	H2 =More than $5,000,000	
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	N =$250,001 - $500,000	O =$500,001 - $1,000,000	P1 =$1,000,001 - $5,000,000	P2 =$5,000,001 - $25,000,000	
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☐ NONE *(No reportable income, assets, or transactions.)*

A Description of Assets (including trust assets) Place "(X)" after each asset exempt from prior disclosure	B Income during reporting period (1) Amount Code 1 (A-H)	B (2) Type (e g , div , rent, or int)	C Gross value at end of reporting period (1) Value Code 2 (J-P)	C (2) Value Method Code 3 (Q-W)	D Transactions during reporting period (1) Type (e g , buy, sell, redemption)	D (2) Date mm/dd/yy	D (3) Value Code 2 (J-P)	D (4) Gain Code 1 (A-H)	
52.					Sold (part)	12/05/22	L		
53.					Buy (add'l)	12/08/22	L		
54.					Sold (part)	12/08/22	M	E	
55.					Buy (add'l)	12/16/22	M		
56.					Sold (part)	12/16/22	M	G	
57. JPM MANGAED INCOME FUND	B	Dividend	O	T					
58. JPM FLOAT RATE INC.	B	Dividend	M	T					
59. APPLE INC.	A	Dividend	J	T					
60. NOVOZYMES INC.	A	Dividend	J	T					
61. TENCENT MUSIC ENTERTAINMENT		None	N	T					
62. ISHARE MSCI WORLD ETF	C	Dividend	M	T	Buy	12/01/22	M		
63. BITCOIN (BTC)		None	M	T	Buy (add'l)	02/07/22	K		
64.					Sold (part)	02/14/22	L	D	
65.					Buy (add'l)	07/08/22	L		
66. ETHEREUM (ETH)		None	L	T	Buy	02/07/22	L		
67.					Buy (add'l)	02/14/22	L		
68.									

1 Income Gain Codes: (See Columns B1 and D4) — A =$1,000 or less; B =$1,001 - $2,500; C =$2,501 - $5,000; D =$5,001 - $15,000; E =$15,001 - $50,000; F =$50,001 - $100,000; G =$100,001 - $1,000,000; H1 =$1,000,001 - $5,000,000; H2 =More than $5,000,000

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A	B		C		D				
Description of Assets (including trust assets)	Income during reporting period		Gross value at end of reporting period		Transactions during reporting period				
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69.									
70.									
71.									

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VIII. ADDITIONAL INFORMATION OR EXPLANATIONS. *(Indicate part of report.)*

The Gamestop position was a short position

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IX. CERTIFICATION.

I certify that all information given above (including information pertaining to my spouse and minor or dependent children, if any) is accurate, true, and complete to the best of my knowledge and belief, and that any information not reported was withheld because it met applicable statutory provisions permitting non-disclosure.

I further certify that earned income from outside employment and honoraria and the acceptance of gifts which have been reported are in compliance with the provisions of 5 U.S.C. app. § 13141 et. seq., 5 U.S.C. § 7353, and Judicial Conference regulations.

Signature: s/ Eric R. Komitee

NOTE: ANY INDIVIDUAL WHO KNOWINGLY AND WILLFULLY FALSIFIES OR FAILS TO FILE THIS REPORT MAY BE SUBJECT TO CIVIL AND CRIMINAL SANCTIONS (5 U.S.C. app. § 13106)

Committee on Financial Disclosure
Administrative Office of the United States Courts
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Washington, D.C. 20544