UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
OFFICE OF ADMINISTRATIVE LAW JUDGES

In the Matter of	)	
Dr. Michael J. Galvin,	)	Docket No. 9445
Appellant.	)	

ORDER DENYING MOTION FOR DISQUALIFICATION

Dr. Galvin moves that I disqualify myself as the presiding judge based on my bar association contacts, before my early 2024 appointment as an administrative law judge ("ALJ"), with a member of the Board of Directors of the Horseracing Integrity and Safety Authority, Ms. Terri Mazur. The contacts are set forth more specifically in an email sent by my office to the parties' counsel upon assignment of this case to me. Dr. Galvin has attached a copy of the email to his motion, which recites the relevant facts.[1] I reiterate that, despite the references to "Judge Himes" in the email and recitation below, all the matters referred to pre-date my becoming an ALJ.

Statement of Facts

ALJ Jay Himes and a member of HISA's board of directors, Terri Mazur, each served on the executive committee ("EC") of the New York State Bar Association's

[1] Motion of Dr. Michael J. Galvin for Disqualification, Ex. A. Throughout this Order, I use the terms "disqualify" and "recuse" interchangeably.

("NYSBA's") Antitrust Section for, roughly, 10 or more years. During that time, the EC had on the order of 50-80 members, increasing yearly, and Judge Himes does not recall any individual project that he and Ms. Mazur worked on together.

Ms. Mazur also chaired NYSBA's Women in Law Section during 2020-21 when Judge Himes chaired NYSBA's International Section. The two had some 2020 mid-year telephone contact. Judge Himes recalls arranging for the International Section to support on a non-financial basis a virtual program Ms. Mazur arranged between her group and a women's bar group located in Africa. Later, in 2021, Judge Himes put Ms. Mazur in touch with a Milan, Italy bar association for a planned Women in Law Section program.

Subsequently, a report from the Women in Law Section was circulated for support among NYSBA's roughly two dozen sections, including the Antitrust Section. Judge Himes advocated that the Section's EC support the report although ultimately no Antitrust Section EC action was taken.

NYSBA's Business Law Section included a panel on antitrust law developments at its January 2022 annual meeting. Judge Himes was asked to participate in that panel, and, in assisting its organization, invited Ms. Mazur to participate, and she agreed to do so.

During the 2022-23 period, Ms. Mazur and Judge Himes also served as delegates to NYSBA's House of Delegates (consisting of scores of attorneys from throughout New York), and participated in a subgroup known as the Sections Caucus (consisting of roughly 40-50 individuals). Judge Himes's participation in

both groups declined during this period. He does not recall any matter of substance that he was involved in with Ms. Mazur.

Given the level of Judge Himes's and Ms. Mazur's NYSBA involvement, there doubtless were other contact points from time to time, but only professionally and not socially.

Judge Himes does not recall when he last spoke with Ms. Mazur, but is confident it was well over a year ago. Judge Himes last attended an Antitrust Section EC meeting in February 2024. The meeting was held both in-person and virtually (or telephonically). He does not know whether Ms. Mazur also attended. However, in response to an Antitrust Section EC announcement in March 2024 of his appointment as a judge at the FTC, Ms. Mazur sent Judge Himes a congratulatory email.

Upon becoming an FTC ALJ, Judge Himes resigned from the ECs of both the Antitrust Section and the International Section. He previously had ceased to be a member of the House of Delegates and the Sections Caucus.

Decision

I deny the motion. The contacts between Ms. Mazur and me in years past pale by comparison to those in the many cases establishing that "[r]arely does a judge's mere acquaintance with a party or witness justify recusal."[2]

[2] *United States v. Kehlbeck*, 766 F. Supp. 707, 711 (S.D. Ind. 1990) (citing authorities).

1. The Federal Disqualification Statute

As grounds for disqualification, Dr. Galvin cites 28 U.S.C. § 455(a), which instructs that "[a]ny . . . judge . . . of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned." The Commission has itself "in general . . . agree[d]" that "Commissioners, acting as judges, are held to the recusal standards applicable to the federal judiciary."[3] I thus accept that this recusal standard also applies to me as an ALJ.[4]

Countless cases teach that the standard for disqualification is whether the judge's "impartiality might reasonably be questioned by the average person on the street who knows all the relevant facts of a case."[5] Applying this standard, the bar association contacts Ms. Mazur and I had before I became an ALJ are insufficient to require recusal.

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[3] *In re Intel Corp.*, No. 9431, 2010 WL 9434818, at *3 (FTC Jan. 19, 2010).

[4] The only applicable FTC Practice Rule, § 4.17(c), is directed specifically to disqualification of Commissioners, and states that "[s]uch motion shall be determined in accordance with legal standards applicable to the proceeding in which such motion is filed." I similarly assume the Rule may be looked to for guidance.

[5] *United States v. Ruff*, 472 F.3d 1044, 1046 (8th Cir. 2007*). See also, e.g., Porretto v. City of Galveston Park Bd. of Trs.*, 113 F.4th 469, 492 (5th Cir. 2024) (The standard is "whether a reasonable and objective person, knowing all of the facts, would harbor doubts concerning the judge's impartiality," and considers "the perspective of the well-informed, thoughtful and objective observer, rather than the hypersensitive, cynical, and suspicious person.") (cleaned up); *Clemens v. United States Dist. Ct. for Cent. Dist. of Cal.*, 428 F.3d 1175, 1178 (9th Cir. 2005) (the standard is "whether a reasonable person perceives a significant risk that the judge will resolve the case on a basis other than the merits," where "a reasonable person . . . means a well-informed, thoughtful observer, as opposed to a hypersensitive or unduly suspicious person."); *In re Bellon*, No. 25-1842, 2025 WL 2437828, at *2 (3d Cir. Aug. 25, 2025) (Recusal "is required where a reasonable person who is aware of all relevant facts might reasonably question a judge's impartiality," an analysis that "must rest on the kind of objective facts that a reasonable person would use to evaluate whether an appearance of impropriety had been created, not on possibilities and unsubstantiated allegations.") (cleaned up).

"Judges come into contact with and come to know many lawyers, but 28 U.S.C. § 455 does not require a judge to recuse himself from hearing any case handled by a lawyer he knows."[6] Therefore, "casual, professional relationships—even those between a judge and a party to a case—do not warrant recusal."[7] Many courts have held that "friendship between a judge and a lawyer, or other participant in a trial, without more, does not require recusal."[8]

For example, in *United States v. Kahre*,[9] the District Court reviewed the assigned Magistrate Judge's denial of recusal even though the Magistrate Judge and a witness were members of the same church, and "their spiritual relationship" was "more extensive than coincidental membership . . . ."[10] Specifically:

> Mr. Herman [the witness] testified that he engaged in counseling sessions with Judge Johnston relating to his divorce and would characterize himself as in Judge Johnston's "care." Furthermore, Judge Johnston's position as counselor to the State President [the church's presiding official] provides him with a certain amount of authority within the church and, consequently, over Mr. Herman. Judge Johnston, in fact, signed Mr. Herman's "temple recommend card," which enabled him to participate in the LDS Church, an

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[6] *Paws for a Treat LLC v. Christmas Tree Shop*, No. 3:05CV1304, 2006 WL 236750, at *2 (D. Conn. Jan. 24, 2006).

[7] *Porretto*, 113 F.4th at 493 (citing authorities). *See also Jenson v. Fisher*, 99 F.3d 1149 (table decision), 1996 WL 606505, at *2 (10th Cir. Oct. 23, 1996) ("Professional associations alone are insufficient to establish judicial bias."); *In re Jim Slemons Hawaii, Inc.*, No. 09-01802, 2013 WL 980115, at *12 (9th Cir. BAP Mar. 13, 2013) ("Social acquaintances, friendships or associational relationships are rarely grounds for recusal.") (citing authorities).

[8] *In re Complaint of Jud. Misconduct*, 816 F.3d 1266, 1268 (9th Cir. 2016).

[9] No. 2:05-cr-121 DAE (RJJ), 2008 WL 5246034, at *5 (D. Nev. Dec. 15, 2008).

[10] *Id.* at *5.

> activity which Mr. Herman admits is of significant importance to him spiritually and emotionally.[11]

However, the witness also testified that "he had conversations with the Magistrate Judge less than five times in the last three to four years," and "many of these conversations occurred casually, on the walkway to the LDS Church."[12] The two, the witness said, were "not social friends"; rather, their contacts were limited to "official church business."[13]

The District Court held recusal was not required:

> [T]he totality of the circumstances indicates that the relationship is not sufficient to justify recusal in this case. A judge is not a sterile creature who dons judicial robes without any prior contacts in the community but rather is very likely to be a man or woman with a broad exposure to all kinds of citizens of all shades of persuasion and background.[14]

Similarly, in *In re Pork Antitrust Litigation*,[15] the judge denied recusal based on:

> (1) his law clerk's "work [while a law student] at a firm involved in antitrust litigation that is not a party to this matter, (2) his work at the Minnesota Attorney General's Office, (3) his social medial posts, (4) his work at

[11] *Id.* at *5.

[12] *Id.* at *6 (cleaned up).

[13] *Id.*

[14] *Id.* (cleaned up). *See also Henderson v. Dep't of Pub. Safety & Corr.*, 901 F.2d 1288, 1296 (5th Cir. 1990) (recusal was not warranted although the judge was a friend of counsel, whom he had known since childhood, and also a friend of counsel's father).

[15] No. 18-1776 (JRT/JFD), 2025 WL 2840997 (D. Minn. Oct. 7, 2025), *pet. writ. mandamus denied sub nom. In re: Agri Stats, Inc.*, No. 25-3091 (8th Cir. Nov. 21, 2025).

> Lockridge Grindal Nauen [one of the plaintiffs' firms], and (5) the Court's decision to screen the law clerk from further involvement in the matter."[16]

Recusal, the Court wrote, "must be limited to truly extraordinary cases where . . . the judge's views have become so extreme as to display clear inability to render fair judgment. . . . [A] reasonable observer who was fully informed of all of the facts available in the record would not question the judge's impartiality."[17]

As another example, in *Ohio-Sealy Mattress Manufacturing Co. v. Sealy, Inc.*,[18] the plaintiff sought to retain Dan Webb as additional trial counsel. Webb had worked with the trial judge, Williams, while the two were Assistant U.S. Attorneys. Webb later became the U.S. Attorney for the Northern District of Illinois, with Williams serving as his deputy chief of a criminal division. Webb later promoted Williams to head a regional drug task force. Subsequently, Webb recommended Williams be nominated as a federal district judge, and, with others, advised her during the pre-nomination process. After Williams' nomination was approved, the two had contact at her induction ceremony. Nevertheless, Judge Williams held that Webb could appear as trial counsel without her having to recuse herself: "courts have refused to require recusal of judges in cases where their friends—even their close friends—appear as counsel."[19]

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[16] 2025 WL 2840997, at *2.

[17] *Id.* at *5, *6 (cleaned up).

[18] 1986 WL 6919 (N.D. Ill. June 9, 1986).

[19] *Id.* at *4. *See also Cmty. Legal Servs. in E. Palo Alto v. HHS*, No. 25-cv-02847-AMO, 2025 WL 1346877, at *3 (N.D. Calif. Apr. 17, 2025) ("In today's legal culture friendships among judges and lawyers are common. They are more than common; they are desirable.") (cleaned up).

My pre- appointment contacts here with Ms. Mazur could not reasonably be said to suggest any inability to be impartial. Indeed, they are indistinguishable from those I had with scores of bar association and other professional colleagues over the last 25 or more years.

2. Administrative Official Disqualification

There is yet another basis to deny Dr. Galvin's motion. The statutory standards that govern the disqualification of federal judges are not designed to, and do not, mirror disqualification of administrative adjudicators. Disqualification of an administrative official acting in a judicial or quasi-judicial capacity is governed by the requirements of due process. That standard is "more flexible and less stringent than the statutory standards governing disqualification of federal judges . . . ."[20] Contacts that might otherwise require a federal judge to recuse are not necessarily required as a matter of due process and, therefore, insufficient to disqualify an administrative adjudicator.

An administrative adjudicator is presumed to be unbiased.[21] Accordingly, a party seeking disqualification must overcome that presumption by demonstrating that "a disinterested observer may conclude that [the adjudicator] has in some measure adjudged the facts as well as the law of a particular case in advance of

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[20] *Matter of Meta Platforms, Inc.*, No. 9411, 2023 WL 1861224, at *4 (FTC Feb. 1, 2023).

[21] *See, e.g., Schweiker v. McClure*, 456 U.S. 188, 195 (1982); *Matter of Intuit,* No. 9408, 2023 WL 7104051, at *2 (FTC Oct. 19, 2023).

hearing it."[22] "The test [for recusal] may be stated in terms of whether the judge's mind is irrevocably closed on the issues as they arise in the context of the specific case."[23]

Thus, again, without more, professional contacts before appointment as an administrative adjudicator provide no basis for recusal. In *New York State Inspection, Security & Law Enforcement Employees District Council 82 v. New York State Public Employment Relations Board*,[24] the hearing officer had previously practiced law with three attorneys prosecuting a union for state labor law violations. The District Court held due process did not require the hearing examiner's recusal: "Administrative adjudicators are presumed able to transcend the personal feelings they may have toward former colleagues, and to avoid unduly favoring (or disfavoring) the causes they advocate. Indeed, a prior professional association, without more, does not even offend the more stringent standards of The Code of Judicial Conduct or 28 U.S.C. § 455."[25]

This body of caselaw, too, demonstrates that Dr. Galvin's motion is without merit.

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[22] *Cinderella Career & Finishing Schs., Inc. v. FTC (Cinderella II)*, 425 F.2d 583, 591 (D.C. Cir. 1970) (cleaned up).

[23] *S. Pac. Commc'ns Co. v. Am. Tel. & Tel. Co.*, 740 F.2d 980, 991 (D.C. Cir. 1984) (cleaned up), *cited with approval in Intuit,* 2023 WL 7104051, at *2.

[24] 629 F. Supp. 33 (N.D.N.Y. 1984).

[25] *Id.* at 49.

3. Other Provisions

Dr. Galvin makes passing reference to: (1) the Standards of Ethical Conduct for Employees of the Executive Branch, specifically 5 C.F.R. § 2635.101(b)(l4) and § 2635.502(a)(2); and (2) American Bar Association Model Code of Judicial Conduct, Canon 3(E)(1). These tossed-in provisions add no substance to Dr. Galvin's motion.

The cited Standards for employees are as follows:

> **§ 2635.101 Basic obligation of public service.**
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> (b) General principles. The following general principles apply to every employee and may form the basis for the standards contained in this part. When a situation is not covered by the standards set forth in this part, employees must apply the principles set forth in this section in determining whether their conduct is proper.
> . . . .
>
> (14) Employees shall endeavor to avoid any actions creating the appearance that they are violating the law or the ethical standards set forth in this part. Whether particular circumstances create an appearance that the law or these standards have been violated shall be determined from the perspective of a reasonable person with knowledge of the relevant facts.
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> **§ 2635.502 Personal and business relationships.**
>
> (a) Consideration of appearances by the employee. In considering whether any of the following would cause a reasonable person to question their impartiality, employees may seek the assistance of their supervisor, an agency ethics official, or the agency designee.
> . . . .
>
> (2) When an employee knows that a person with whom the employee has a covered relationship is or represents a party to a particular matter involving specific parties, and the employee determines that the circumstances would cause a reasonable person with knowledge of the relevant facts to question their impartiality in the matter, the employee should not participate in the matter unless the employee has received a determination from the agency designee regarding the appearance problem in accordance with paragraph (c) of this section or received an authorization from the agency designee in accordance with paragraph (d) of this section.

Dr. Galvin does not explain the applicability of either Standard here, however.

I reject both nominal references as representing undeveloped arguments. As one Court has written: "A judge is the impartial umpire of legal battles, not a plaintiffs' attorney. He is neither required to hunt down arguments plaintiffs keep camouflaged, nor required to address perfunctory and undeveloped arguments."[26] This part of Dr. Galvin's motion similarly fails to satisfy FTC Rule of Practice 4.17(b)(1), which requires it to be supported by "information setting forth with particularity the alleged grounds for disqualification."

In any event, the federal employee Standards do not provide a basis for disqualification, absent a showing of actual prejudice rising to the level of a due process violation.[27] The facts here do not come close to the required showing. Since federal disqualification law generally affords no basis for relief, neither do the cited ethical standards.[28]

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[26] *Williams v. Eastside Lumberyard and Supply Co.,* 190 F. Supp. 2d 1104, 1114 (S.D. Ill. 2001) (cleaned up; authorities omitted). *See also Blankenship v. Williams*, No. 4:24-CV-00306-DGK, 2024 WL 4593871, at *5 (W.D. Mo. Oct. 28, 2024) (An argument presented without "analysis or explanation is beyond unhelpful; it is a waste of the Court's time."); *McDougall v. Boiling Crab Vegas, LLC*, No. 2:20-cv-01867-RFB-NJK, 2022 WL 22925622, at *1 (D. Nev. June 7, 2022) ("courts do not resolve disputes when they are presented with ill-developed argument."); *Halik v. Darbyshire*, No. 20-cv-01643-PAB-KMT, 2021 WL 4305011, at *4 (D. Colo. Sept. 22, 2021) (An argument that is "meager and perfunctory" is not "adequately presented.").

[27] *See United States v. Google, LLC*, 692 F. Supp. 3d 583, 596 (E.D. Vir. 2023) (citing authorities). *Cf. District Hospital Partners, L.P. v. NLRB*, 141 F.4th 1279, 1295-96 (D.C. Cir. 2025) (an NLRB member, who formerly was general counsel for a local union that was an affiliate of the plaintiff's parent organization and who had "no direct involvement in this dispute" was not required to recuse; noting that under 5 C.F.R. § 2635.502, "past employment alone does not automatically create an appearance of bias," but "rather . . . depends on whether the former employer is a party to the matter or maintains a close personal relationship that could reasonably raise questions about impartiality.").

[28] *See FTC v. Facebook, Inc.*, 581 F. Supp. 3d 34, 64 (D.D.C. 2022); *Matter of Caremark Rx, LLC*, No. 9437, 2025 WL 711525, at *12 (FTC Jan. 14, 2025) (where no basis for questioning the Chair's impartiality was shown, the ethical standards afforded no grounds for disqualification).

Regarding the ABA Model Canons, Canon 2.11, on disqualification, made various changes in former Canon 3(E)(1), the one referred to in Dr. Galvin's motion.[29] The current Model Canon, in pertinent part, provides:

> (A) A judge shall disqualify himself or herself in any proceeding in which the judge's impartiality* might reasonably be questioned, including but not limited to the following circumstances:
>
> . . . .
>
> (6) The judge:
>
> (a) served as a lawyer in the matter in controversy, or was associated with a lawyer who participated substantially as a lawyer in the matter during such association;
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> . . . .
>
> (c) was a material witness concerning the matter.

The "impartiality" lead-in is covered above. Regarding subsection (6), plainly, I never served as a lawyer in this case ("the matter in controversy") and am not "a material witness" concerning it. Nor was I ever "associated with" Ms. Mazur in this, "matter"—or any other case.

This Model Canon has no application.[30]

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[29] https://www.americanbar.org/groups/professional_responsibility/publications/model_code_of_judicial_conduct/model_code_of_judicial_conduct_canon_2/rule2_11disqualification/

[30] *See also Olivares v. White*, No. 43A03–0708–CV–377, 2008 WL 1794811, at *6 (Ind. Ct. App. Apr. 22, 2008) (Disqualification was not required, under the state provision analogous to former Model Canon 3(E)(1), where the trial judge "neither served as a lawyer in the matter in controversy nor is there any evidence that a lawyer with whom Cates [the trial judge] practiced served . . . as a lawyer concerning the matter in controversy [or] was a material witness . . . . Furthermore, . . . we cannot say that the facts indicate that a reasonable person would have doubted Judge Cates' impartiality.") (cleaned up).

4. Dr. Galvin's Case Law Authorities

Dr. Galvin word-plucks four decisions, but makes no effort to relate the facts in the cases to those here. Each decision is distinguishable.

In *Texaco v. FTC*,[31] while an enforcement matter was pending before the ALJ, FTC Chair Dixon gave a speech in which he identified by name several companies, including the respondent, as engaging in practices that "plague you [the audience]."[32] Chair Dixon then listed the practices that were the subject of the enforcement proceeding before the ALJ and stated that the Commission would pursue more such cases to vindicate fair competition in the industry.[33]

Cinderella Career & Finishing Schools, Inc. v. FTC[34] involved another speech by Chair Dixon regarding a matter that at the time was pending not before the ALJ, but before the Commission itself (including Dixon).[35] The Court made clear its concern was with Chair Dixon's speaking on "a case awaiting his official action."[36]

Liljeberg v. Health Serv. Acquisition Corp.[37] arose from a trial presided over by Judge Collins while he served as a trustee of Loyola University. The University

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[31] 336 F.2d 754 (D.C. Cir. 1964), *vacated on other grounds*, 381 U.S. 739 (1965).

[32] *Id.* at 759.

[33] *Id.*

[34] 425 F.2d 583 (D.C. Cir. 1970).

[35] *Id.* at 589–90.

[36] *Id.* at 591.

[37] 486 U.S. 847 (1988),

had a significant financial interest that depended on Liljeberg winning the litigation, and Judge Collins had actual knowledge of the University's interest in the case. However, having forgotten about the connection by the time of trial, Judge Collins decided in favor of Liljeberg.[38] The Supreme Court held there was an appearance of impropriety sufficient to vacate the judgment and direct a new trial.

Finally, in *In re Murchison*,[39] a judge conducted a single "judge-grand jury" proceeding authorized by Michigan law. Believing two grand jury witnesses had committed perjury while testifying before him during the proceeding, the judge charged them with contempt. The judge then presided over the contempt trial and convicted them. The Supreme Court held there was a due process violation.

The facts here bear no resemblance to those in any of Dr. Galvin's authorities. I have made no public comments regarding this or any other case arising under HISA, either before or after being appointed as an ALJ. I am not an official of any entity that has an interest, financial or otherwise, in the outcome of this case. I had nothing to do with investigating or prosecuting the charges brought against Dr. Galvin. None of the cited decisions warrants my recusal.

Conclusion

Like those of an Article III court, the proceedings here "must be attended, not only with every element of fairness but with the very appearance of complete

[38] *Id.* at 850-51.

[39] 349 U.S. 133 (1955).

fairness."[40] But at the same time, "[a] judge is as much obliged not to recuse himself when it is not called for as he is obliged to when it is."[41] In consequence "because except in the most unusual circumstances we trust judges to put their personal feelings aside, recusal must be limited to truly extraordinary cases . . . ."[42]

Dr. Galvin's motion is **DENIED**. The stay issued by my November 26, 2025 Order is **VACATED**. A separate Order will issue on Dr. Galvin's petition for review.

ORDERED:

Jay L. Himes
Jay L. Himes
Administrative Law Judge

Date: December 15, 2025

[40] *Texaco,* 336 F.2d at 760. *See also Intuit,* 2023 WL 7104051, at *2 ("Both unfairness and the appearance of unfairness must be avoided.")

[41] *In re Drexel Burnham Lambert, Inc.*, 861 F.2d 1307, 1312 (2d Cir. 1988). *See also Holloway v. United States*, 960 F.2d 1348, 1350 (8th Cir. 1992) ("judges have an affirmative duty . . . not to disqualify themselves unnecessarily").

[42] *Cobell v. Kempthorne*, 455 F.3d 317, 332 (D.C. Cir. 2006). *See also Liteky v. United States*, 510 U.S. 540, 551 (1994).