

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CASE NO. 20-CIV-81205-RAR

**SECURITIES AND EXCHANGE
COMMISSION,**

Plaintiff,

v.

**COMPLETE BUSINESS SOLUTIONS
GROUP, INC. d/b/a PAR FUNDING, et al.,**

Defendants.

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**ORDER DENYING DEFENDANTS' JOINT MOTION
FOR RECUSAL AND REQUEST FOR HEARING**

THIS CAUSE is before the Court on the Defendants' Joint Motion for Recusal and Request for Hearing [ECF No. 630] ("Motion"), filed on June 23, 2021. In the Motion, Defendants Lisa McElhone, Joseph W. LaForte, and Joseph Cole Barleta ("Defendants") seek recusal of the undersigned pursuant to 28 U.S.C. section 455(a) "given this Court's appearance of partiality in favor of the Receiver." Mot. at 1.

Under section 455(a), a federal judge must disqualify himself if his "impartiality might reasonably be questioned." To disqualify a judge under section 455(a), the bias "must stem from extrajudicial sources," not court rulings, "unless the judge's acts demonstrate such pervasive bias and prejudice that it unfairly prejudices one of the parties." *United States v. Spuza*, 194 F. App'x 671, 676-77 (11th Cir. 2006) (quoting *United States v. Bailey*, 175 F.3d 966, 968 (11th Cir. 1999)). "The test for determining whether a judge's impartiality might reasonably be questioned is an objective one, and requires asking whether a disinterested observer fully informed of the facts would entertain a significant doubt as to the judge's impartiality." *Bivens Gardens Off. Bldg., Inc. v. Barnett Banks of Fla., Inc.*, 140 F.3d 898, 912 (11th Cir. 1998).

Opinions formed by a judge based on “facts introduced or events occurring in the course of the current proceedings” are not grounds for a recusal motion “unless they display a deep-seated favoritism or antagonism that would make fair judgment impossible.” *Liteky v. United States*, 510 U.S. 540, 555 (1994); *see also Jaffe v. Grant*, 793 F.2d 1182, 1189 (11th Cir. 1986) (finding that denial of recusal motion was appropriate where the Court’s statements reflected its “perception of the underlying facts of the case” and a party’s litigation tactics). Furthermore, “expressions of impatience, dissatisfaction, [or] annoyance” made in the course “ordinary efforts at courtroom administration” do not establish bias or partiality. *Liteky*, 510 U.S. at 555-56.

Applying this standard to the present case, the Court finds that Defendants’ Motion is without merit and that the undersigned’s recusal under section 455(a) is not appropriate. The Court further finds that a hearing is unnecessary to resolve this Motion. Accordingly, it is hereby

ORDERED AND ADJUDGED that Defendants’ Joint Motion for Recusal and Request for Hearing [ECF No. 630] is **DENIED**.

DONE AND ORDERED in Fort Lauderdale, Florida, this 24th day of June, 2021.



RODOLFO A. RUIZ II
UNITED STATES DISTRICT JUDGE