## UNITED STATES DISTRICT COURT EASTERN DISTRICT OF KENTUCKY SOUTHERN DIVISION PIKEVILLE

ARNETIA JOYCE ROBINSON,	)	
Plaintiff,	)	
,	)	Civil No. 15-109-ART
v.	)	
	)	
FEDERAL HOUSING FINANCE	)	ORDER
AGENCY, et al.,	)	
	)	
Defendants.	)	
	*** *** *** **	*

This case is about the turbulent life of two government-sponsored companies, the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation (or "Fannie Mae" and "Freddie Mac," respectively). Fast-forwarding to the most relevant details, Fannie and Freddie are currently in conservatorship. Their conservator, the Federal Housing Finance Agency (FHFA), has enacted a "net worth sweep," which apparently requires Fannie and Freddie to hand over almost their entire net worth to the Department of Treasury every quarter. *See* R. 15 ¶ 14. Arnetia Joyce Robinson, a shareholder in Fannie and Freddie, now asks the Court to enjoin the net worth sweep. R. 15 ¶ 165. And the FHFA and Treasury ask the Court to dismiss her complaint. R. 22; R. 23.

While preparing for oral argument on the motions to dismiss, it came to the Court's attention that the undersigned's wife owns sixteen shares in Fannie Mae. Under 28 U.S.C. § 455(b)(4), a judge "shall" recuse himself if he or his spouse "has a financial interest in the subject matter in controversy." Although sixteen shares is not a fortune, the statute is clear that a financial interest "means ownership of a legal or equitable interest, *however small*."

*Id.* § 455(d)(4) (emphasis added). Because of his spouse's small interest in Fannie Mae—the subject of this controversy—the undersigned is required to recuse himself from this case.

Robinson responds that the undersigned can avoid recusal by simply selling off the sixteen shares. R. 57-1. And Robinson is right: A judge is not required to recuse if he or his spouse "divests himself or herself of the [financial] interest" after discovering it. 28 U.S.C. § 455(f). But the statute does not *mandate* that judges sell their shares in order to avoid recusing. Nor does the Court consider such a practice sound judicial policy. A judge could effectively pick and choose his cases by selling certain shares and keeping others. Such maneuvering would be obviously unfair to litigants—not to mention unnecessary, given a bench full of other uniformly qualified and impartial judges. The undersigned therefore will not divest the shares simply in order to hear this case. Thus, the undersigned must recuse.

Accordingly, pursuant to the Case Assignment and Recusal Order, it is **ORDERED** that this action is referred to Chief Judge Karen Caldwell of the United States District Court for the Eastern District of Kentucky. *See* General Order No. 16-5 at 2–3.

This is the 11th day of July, 2016.

STATES DISTRICT COUNTY

Signed By:

Amul R. Thapar AT

United States District Judge