

October 11, 2019

TO: Office of Congressional Ethics

FROM: Bashar Wali, Principal and President, Provenance Hotels

RE: Complaint Regarding Rep. Earl Blumenauer's Call to Boycott Provenance Hotels

Subject of Allegation: Representative Earl F. Blumenauer

Date(s) the Alleged Conduct Occurred: 10/9/19

Concise Statement of Facts:

On October 9, 2019, Congressman Earl Blumenauer (D-Or.) publicly called for a boycott of Provenance Hotels in response to the U.S. Department of State preventing Ambassador to the European Union Gordon Sondland from testifying in the Congressional impeachment inquiry of President Donald Trump. This action threatened the livelihoods of not only our hard-working employees, but also our business partners. It is important to point out that when Ambassador Sondland assumed the role as ambassador, he stepped down from his executive role at Provenance and was no longer involved in the administration of the company.

This call to action was not simply a throw-away social media post. Congressman Blumenauer also issued a press release garnering significant media attention in both local and national media outlets, including [The Oregonian](#), [Oregon Public Broadcasting](#), [The Hill](#), among many others. Both his release and [social posts](#) explicitly stated:

"Anyone who cares about America should not do any business or stay at any of Gordon Sondland's hotels. Not until he fulfills his duty as a citizen to testify and turn over all relevant documents to the House of Representatives."

This statement is an explicit threat made by Congressman Blumenauer to create economic harm to an administrative official, who was complying with his own agency's direction not to testify.

The Law, Regulation, or Rule Allegedly Violated

We believe Congressman Blumenauer's actions constitute a potentially serious violation of Congressional ethics as outlined in multiple sections of the [House Ethics Manual](#).

In what is possibly the most egregious violation, the House Ethics Manual explicitly warns Members of Congress against threatening officials within executive agencies on matters with which they disagree:

[p. 306-307]

A Member should not directly or indirectly threaten reprisal or promise favoritism or benefit to any administrative official. [Emphasis Mine]

[. . .]

2. Direct or implied suggestion of either favoritism or reprisal in advance of, or subsequent to, action taken by the agency contacted is unwarranted abuse of the representative role.

This is a clear ethical violation. Congressman Blumenauer's statement is an explicit threat that could potentially create economic harm to Ambassador Sondland, an administrative official.

The House Ethics Manual also strongly advises against using an official communication from their office to intervene in private matters, specifically when it comes to attempts to pressure private actions (such as the threat of a boycott to force Ambassador Sondland to testify):

[p. 313]

Although a Member may take actions that the Member believes will assist the congressional district, intervening in private matters requires the exercise of particular caution. Unlike agency personnel, many private businesses are not used to dealing with Members of Congress on a regular basis. Thus, a communication from a Member's office may be viewed as an official endorsement of a private enterprise, or as pressure to take action in order to please the Member, rather than based on the merits. In this context, again, Members and employees should bear in mind that official resources should not be devoted to doing the work of private businesses. [Emphasis Mine]

There are a number of sections in the House Ethics Manual about a Member using a public office for private gain. But as legal expert Kathleen Clark, a professor of law at Washington University in St. Louis said this about a House Committee's call to boycott the company Patagonia:

"But there's a general principle that you don't use public office for private gain," Clark says. "And there's a corollary principle that says it's improper to use public office to cause private loss."

Indeed, the corollary of using an office to cause harm or loss to a private business would also seem to be an unethical use of power in the spirit of the code of ethics. For instance, the manual states:

[p. 186]

A member of Congress "may not receive compensation and may not permit compensation to accrue to his beneficial interest from any source, the receipt of which would occur by virtue of influence improperly exerted from his position in Congress."

As noted in the debate preceding adoption of this rule, an individual violates this provision if he uses —his political influence, the influence of his position . . . to make pecuniary gains.¹¹ Members and staff, when considering the applicability of this provision to any activity they are considering undertaking, must also bear in mind that under a separate provision of the Code of Official Conduct (House Rule 23, cl. 2), they are required to adhere to the spirit as well as the letter of the Rules of the House. In any event, the Standards Committee routinely advises Members and staff to avoid situations in which even an inference might be drawn suggesting improper conduct. [Emphasis Mine]

And while Blumenauer may not be experiencing a personal gain from this call to boycott Provenance, there is a strong case to be made that this action could benefit some of Blumenauer's donors. Beyond simply being a hotel developer, Provenance Hotels often

purchases and renovates [historic buildings](#) and partners with local Portland artists and businesses to bring unique experiences to their guests.

Blumenauer has in fact received donations from multiple donors in similar sectors:

- Blumenauer received donations (in the [2016](#) cycle) from Russell Fellows Properties, a prominent Portland developer who is also [heavily involved](#) in Portland development. He has sat on the Portland Historic Landmark Commission and Portland Planning Commission, among others.
- Blumenauer received donations from [Dudley Ventures](#) (in both the [2016](#) and [2018](#) cycles), which provides advisory and structuring assistance for Historic Tax Credits and Investment Tax Credits.
- Blumenauer received donations from The Holt Group (in both the [2016](#) and [2018](#) cycles), a real estate developer in Oregon and Washington.
- Blumenauer received donations (in the [2020](#) cycle) from [Focus Property Group](#), a property development company in Denver, CO that has projects in the hospitality market.

A boycott of Provenance Hotels could financially benefit a number of these donors.