



March 17, 2014

Honorable Barbara Boxer, Chairman
Honorable Johnny Isakson, Vice Chairman
Select Committee on Ethics
220 Hart Building
United States Senate
Washington, DC 20510

Dear Chairman Boxer and Vice Chairman Isakson:

It has come to my attention that Senator Edward Markey (D-MA) has potentially used his federal office to manipulate the stock of a publicly traded company to benefit William Ackman, a hedge fund executive, speculator, and large political contributor. According to reports in the *Boston Globe*, *Wall Street Journal* and *New York Times*, here are the facts:

1. Hedge fund executive William Ackman made a \$1 billion investment in the collapse of the nutritional supplement company Herbalife.
2. William Ackman lobbied several lawmakers to take action against Herbalife in an effort to drive the stock price lower so that his \$1 billion investment pays enormous returns.
3. On January 23rd, Mr. Markey wrote a letter to federal regulators, requesting an investigation of the Herbalife. As a direct result, Herbalife's stock dropped 14%. In the days leading up to January 23rd, various trade activity spiked on this stock.
4. Other Senators declined to engage specifically saying they did not want to interfere in this type of stock transaction.
5. William Ackman contributed \$32,400 to Senate Democrats.
6. William Ackman retained Rasky Baerlein, a communications and lobbying firm. The CEO and Chairman of the firm, Larry Rasky, is a former Markey staff member.
7. On March 12, 2014, the Federal Trade Commission opened an official inquiry into Herablife, prompting a sell-off of the stock.

I believe that Mr. Markey has improperly used his public office and betrayed the public trust. Mr. Markey's staff was well aware of Mr. Ackman's intentions. Furthermore, the fact that Mr. Ackman retained Mr. Rasky raises suspicion and further calls into doubt that Mr. Markey was unaware of the impacts an investigation of Herbalife would have on the stock price.

I believe that the public has a right to know what Mr. Markey knew about this situation and when he knew it. Moreover, the public has a right to know why Mr. Markey and his staff would even entertain using his office to interject their authority in an elaborate "short sell" stock transaction such as this. Finally, was the letter Mr. Markey sent to the FTC released in advance to those that could benefit by a "short sale" of Herbalife stock?

I respectfully request that the Senate Select Committee on Ethics conduct a formal investigation into the extent Mr. Markey violated the public trust by misusing his office in this matter. A complete investigation of this matter should include a full analysis of all the transactions by the Securities Exchange Commission and other relevant federal regulatory and federal law enforcement agencies.

Thank you for your time and consideration of this matter.

Sincerely,

Brian J. Herr
Candidate for United States Senate

Enclosures