

Memphis Marriott East
5795 Poplar Avenue
Memphis, TN 38119

April 2, 2020

David Kustoff
8th District of State Tennessee
U.S. House of Representatives
Washington, DC 20515

Dear Representative Kustoff,

I am the General Manager of a hotel in your district, the 232 room Marriott Hotel located at 5795 Poplar Avenue in Memphis. I am writing you this letter for two reasons. First, I would like to thank you for supporting the recently passed CARES Act. The legislation will bring some needed relief to our property and our employees. Though additional legislation will undoubtedly need to be passed by Congress to support the hotel business given the draconian drops in industry revenues we are experiencing amidst the government-mandated quarantines, I know that you and others in Congress are working hard to help companies and small businesses like ours get back to doing business as soon as it is safe.

The second, and primary, reason for this letter is to draw your attention to a serious issue that many hotel owners are currently dealing with – vulture tactics by non-bank lenders such as hedge funds. This issue has not yet gotten the public attention I believe it warrants and I am deeply concerned about the negative consequences it will have on the entire industry and even on my own hotel.

As you likely know, the Federal Reserve, the FDIC and other regulatory groups issued an Interagency Statement on March 22nd encouraging banks to work proactively with borrowers negatively impacted by COVID-19. Specifically, the statement says:

“The agencies encourage financial institutions to work prudently with borrowers who are or may be unable to meet their contractual payment obligations because of the effects of COVID-19. The agencies view loan modification programs as positive actions that can mitigate adverse effects on borrowers due to COVID-19. The agencies will not criticize institutions for working with borrowers and will not direct supervised institutions to automatically categorize all COVID-19 related loan modifications as troubled debt restructurings (TDRs).”

In simple terms, the Federal Reserve and other government agencies are putting positive pressure on regulated banks to act reasonably and in a business friendly manner with borrowers impacted by the coronavirus. This is undoubtedly a step in the right direction for those borrowers that have loans with FDIC insured banks.

However, billions of dollars of hotel loans in our country come from unregulated non-banks such as hedge funds and other investment funds. Since the Federal Reserve and the FDIC have no direct oversight of these firms, they are unlikely to follow the previously mentioned guidance. They are more likely to take a

different approach: the use of vulture tactics to extract as much “value” out of the hotel as possible without any regard for the current crisis or the hotel employees or hotel owners involved.

These vulture tactics include moving through the foreclosure process as quickly as possible in order to get possession of distressed properties, finding small technical ways to accelerate loan defaults, not allowing borrowers to use existing escrowed funds for operating shortfalls, and slow paying certain reimbursements so that the collateral they would take back upon foreclosure is as valuable as possible.

Many of these tactics are well within their legal rights to do, but are unconscionable from a moral perspective and stand starkly against the principles that we share here in the United States. Frankly, to take advantage of this crisis for the sake of better returns for some New York hedge fund strikes me as un-American. The negative impact to hotel owners and their employees of these vulture tactics will be long lasting.

Representative Kustoff, I urge you, Congress, the Federal Reserve and other governmental agencies to move quickly to address this situation before hotels across this country are mercilessly foreclosed on due to no fault of their own. To the extent additional legislation related to COVID-19 is proposed, I would recommend adding language that introduces an 18-month moratorium on ALL foreclosure proceedings for ALL lenders to hotels. This should give hotels the time they will need to come up with reasonable solutions and strategies with their lenders to ensure that they have their loans paid off and avoid unnecessarily enriching hedge fund vultures.

Sincerely,

A handwritten signature in black ink, appearing to read 'Heinz Jakobi', written over a light blue circular stamp.

Heinz Jakobi
General Manager – Marriott Memphis