

IN THE MATTER OF:

AFFIDAVIT 5

Whistleblower Disclosure Pursuant

Supplemental Production of Records / Affidavit #5 – September 19, 2023

To 26 U.S.C. § 6103(f)(5)

**STATEMENT OF JOSEPH ZIEGLER (WHISTLEBLOWER X)**

1. I provide this statement to supplement my testimony I provided to both the majority and minority staff of the United States House Committee on Ways & Means on June 1, 2023 as well as my testimony I provided to the full committee of the United States House Committee on Oversight and Accountability on July 19, 2023.
2. Since November of 2018, I have been a Special Agent for the Internal Revenue Service – Criminal Investigation (“IRS-CI”), United States Department of Treasury. Since that date, I have been the case agent who initiated and was assigned from IRS-CI to the Robert Hunter Biden (“RHB”) investigation to investigate related potential criminal violations of Title 26 of the United States Code.
3. As requested by these U.S. House Committees, I would like to disclose further information and documents which are a follow up to my testimony and which would be pursuant to the Whistleblower protections defined by Title 26 U.S.C. § 6103(f)(5). I make these disclosures and provide these documents knowing that I could be subject to criminal prosecution for perjury or for making false statements under Title 18 U.S.C. § 1001.
4. **EXHIBIT 501 & 502:** The following is correspondence with Mark Daly, one of the assigned prosecutors scheduling a meeting to discuss the “Charging Decisions” on the Hunter Biden investigation. This email was sent to the members of the Hunter Biden investigative team. The second document is the relevant calendar invites that were sent after this email which formally scheduled the call with the team for Friday, August 12, 2022. Noted on the subject line of the calendar invite: Sportsman Call re. (regarding) Charging. As discussed in my previous testimony, I can recall during this phone call with the assigned prosecutors and assigned investigators, DOJ-Tax Attorney Mark Daly had indicated that the draft of the 99-page prosecution memo from DOJ-Tax had been completed and that the four assigned attorneys had recommended for approval the misdemeanor tax charges for the 2017, 2018 and 2019 tax years and felony tax charges for the 2018 tax year. They further stated that their prosecution memo still needed to have the review of DOJ-

Tax Attorney John Kane finalized. At this time, they had also indicated that they were not going to approve the 2014 felony tax charges and 2015 misdemeanor tax charge. They further stated that the IRS agents had scheduled a meeting with Delaware U.S. Attorney Weiss for the following week (See **Exhibit 503**) to further discuss the tax charges relating to 2014 and 2015.

5. I wanted to make sure that the record was clear on one particular issue as there were multiple tax years and multiple tax charges investigated throughout the investigation. Our IRS investigation of Hunter Biden related to potential tax charges for the 2014, 2015, 2016, 2017, 2018 and 2019 tax years. When we recommended the tax prosecution of Hunter Biden, in the IRS prosecution report (which was a total of approximately 8,350 pages) that went forward to DOJ-Tax division on or about February 25, 2022, the recommended tax charges were misdemeanor tax charges for the tax years 2015, 2016, 2017, 2018, and 2019 and felony tax charges for 2014 and 2018 tax years (Gary Shapley Ways & Means testimony on May 26, 2023 – Exhibit 2). During the conference call with the assigned prosecutors and team on August 12, 2022, again from what I recall, the four assigned attorneys stated that they were recommending for approval the prosecution of Hunter Biden for misdemeanor tax charges for tax years 2017, 2018 and 2019 and felony tax charges for the 2018 tax year and that the venue for those tax charges was the Central District of California.
6. **EXHIBIT 503:** The following is correspondence with Delaware AUSA Lesley Wolf setting up a meeting with Delaware U.S. Attorney David Weiss during the month of August of 2022. As was discussed in this email correspondence, the meeting with U.S. Attorney Weiss was held at the Delaware U.S. Attorney's Office on or about August 16, 2022. Those at this meeting were myself, IRS Special Agent Christine Puglisi, and IRS Supervisory Special Agent Gary Shapley, Delaware U.S. Attorney David Weiss, Delaware First Assistant U.S. Attorney Shannon Hanson, and Delaware Assistant U.S. Attorney Criminal Chief Shawn Weed. From what I recall, during this meeting we discussed the pros and cons of the 2014 and 2015 tax charges. I can recall U.S. Attorney Weiss stating that we fully investigated the tax crimes, that he agreed with our analysis, and that we could pursue the tax charges. He further stated that he had been getting push back from the assigned DOJ-Tax attorneys on pursuing the tax charges relating to 2014 and 2015 because the evidence of those tax charges weren't as strong as the evidence of the tax charges for the 2017, 2018 and 2019 tax years. He further stated that he was told by the DOJ-Tax Attorneys that they had a concern with Hunter Biden and his attorney's being allowed to introduce evidence and testimony of his struggles with substance abuse and the death of his brother, and that this could cause the jury to have sympathy for Hunter Biden and potentially acquit on all charges brought forward (which would include the felony and/ or misdemeanor tax charges for the tax years 2017, 2018, and 2019).

I can recall U.S. Attorney Weiss stating that he was continuing to weigh the evidence but wanted to bring the strongest case forward.

7. Also included in this email correspondence was a request from U.S. Attorney Weiss regarding a defense brought by Hunter Biden's defense counsel regarding an error made by Hunter's accountant on his 2018 tax returns. Again, this defense was thoroughly investigated by the team. The analysis of this defense was reviewed with an IRS Civil Revenue Agent and the assigned FBI Forensic Account and was shared with the assigned prosecutors and U.S. Attorney Weiss. This adjustment (which was a benefit to the taxpayer) was included in the unreported income / additional tax due and owing summary further shown in Affidavit 1 – Exhibit 1D. Again, with considering this error, Hunter Biden would still have unreported income and additional taxes owed of \$106,945 for the 2018 tax year. As of the date of this affidavit, other than this error discussed above, I have not been made aware of any other tax defenses (additional accountant errors for the 2018 tax year) presented by Hunter Biden's team that would eliminate the calculated unreported income and additional tax due and owing noted in Affidavit 1 – Exhibit 1A & 1D.
8. At the conclusion of this meeting, we had asked U.S. Attorney Weiss when he was planning to bring the 2017, 2018 and 2019 tax charges in the Central District of California. I recall him stating that he was planning on bringing these charges by the end of September 2022. This matched up with the timing indicated by DOJ-Tax Attorney Mark Daly in his "moving forward" email on August 18, 2022 (Affidavit 2 – Exhibit 211). During this meeting, I can also recall bringing up to U.S. Attorney Weiss some of the investigative issues we had with some of the attorneys from his office and Department of Justice. From what I recall, this included communication issues, lack of transparency, and that the attorney's at times were not following the evidence.
9. **EXHIBIT 504:** The following was correspondence with Darrell Waldon, the Washington Field Office Special Agent in Charge at the time, setting up meetings for the Hunter Biden investigation. In this email on September 28, 2022, SAC Waldon indicated that he had reached out to "Weiss", known to be David Weiss, U.S. Attorney for Delaware, and "Poole", known to be Jason Poole, DOJ-Tax Section Criminal Chief, regarding setting up a meeting. I can recall that at this time, the case and prosecution had been sent to the Central District of California and we were waiting on that office to make a decision on partnering with the tax charges in their district. This was further corroborated by my September 29, 2022 email to SAC Waldon.
10. I can recall a phone call that I had with SAC Waldon on this date (as indicated in this email correspondence). This phone call occurred on September 29, 2022, which was the same day that we were interviewing James Biden (Affidavit 1 – Exhibit 401). From what I can recall, SAC Waldon stated that DOJ-Tax management had indicated to him that they don't expect the Hunter

Biden case to be indicted until 2023. This was due to various levels of approval at DOJ-Tax Division. It was further noted that I had asked SAC Waldon to request presentations of the tax charges to the Criminal Chief / U.S. Attorneys in the District of DC and in the Central District of California. My argument at the time for the need for these presentations was that as the case investigators, we know the case evidence the best and would be best to present on the evidence in the case which was included in our Prosecution Report (As shown previously in this affidavit, IRS is the one who recommends the tax charges in the appropriate venue).

11. **EXHIBIT 505:** The following is correspondence with one of the assigned prosecutors, Delaware Assistant U.S. Attorney Carly Hudson on October 6, 2022 (It is noted that this was the day before the October 7<sup>th</sup> meeting between IRS and FBI leadership and Delaware U.S. Attorney Weiss). As stated in this email and according to IRS communications with DOJ-Tax Management, they did not expect the case to be indicted until 2023. This would be further evidence that U.S. Attorney Weiss was not the deciding official at the time of the October 7<sup>th</sup> meeting.
12. I can recall having a call with Supervisory Special Agent Gary Shapley and my co-case agent, Christine Puglisi after the October 7<sup>th</sup> meeting with U.S. Attorney Weiss. I can recall SSA Shapley reciting what had happened during that meeting. During this conversation, SSA Shapley told us that U.S. Attorney Weiss stated that he was not the deciding official on whether charges were brought in the investigation, that U.S. Attorney Weiss requested Special Counsel status from main DOJ, but DOJ told Weiss to follow the “normal process” and that the decision had been made not to charge the tax charges relating to the 2014 and 2015 tax years. I can recall on this call that the IRS team was upset and frustrated that the statute of limitations was set to expire for the 2014 and 2015 tax years in the coming months.
13. I can further recall at the time of this meeting that we were extremely frustrated with our IRS leadership and with the U.S. Attorney’s Office. For some time, we had been disclosing to our leadership issues we had seen that would call into question the objectivity of the Delaware U.S. Attorney’s Office and Department of Justice in their handling of this investigation. Again, we had previously mentioned to our IRS leadership in the Spring of 2022, the potential need to call for a Special Counsel / independent person to review the evidence and to make decisions on charging the case. I can recall Director of Field Operations Michael Batdorf and SAC Waldon not having any idea on the process for requesting a Special Counsel. For some time, we had felt, with evidence, that our leadership was not listening to our concerns and was essentially burying their head in the sand.
14. I can also recall having multiple conversations with assigned DOJ-Tax Attorney Mark Daly after the DC U.S. Attorney declined to assist with the tax charges, that U.S. Attorney Weiss needed to

follow the normal process with bringing the tax charges. DOJ-Tax Daly further stated that he wasn't sure if the U.S. Attorney in California was going to sign the indictment with U.S. Attorney Weiss or if Weiss was going to sign the indictment on his own. He also stated during these phone calls that if the Central District of California U.S. Attorney also said no to charging the case in his district, that he didn't see an avenue of charging the case because now two U.S. Attorney's would have declined to bring the tax prosecution. At the time, I can recall having an issue with this statement because this declination was coming from President Biden appointed U.S. Attorneys and I thought there would be a significant conflict of interest. The experts on the case, attorneys from DOJ-Tax division had agreed with the tax charges, but were relying on attorneys who had a limited time to review the evidence and may not be tax charging experts. Even though I thought this at the time and can recall communicating it with SSA Shapley and SA Puglisi, I can't recall if I voiced this concern to DOJ-Tax Attorney Daly, but I believe would have.

15. **EXHIBIT 506:** The following is correspondence I was included on and would have responded to with IRS leadership at the time regarding the Hunter Biden Investigation. I would like to note a few things regarding the emails:

- a. The email at the bottom of Page 4 from Justin Cole on September 22, 2021: For reference, James Lee was the IRS-CI Chief and James Robnett was the IRS-CI Deputy Chief at the time of this email. Bullet point 1 indicates that a witness has leaked investigative information to the media. Bullet point 2 clearly points to a potential issue with objectivity and politicalization of the investigation. During the course of the investigation, we raised issues with the conduct of Department of Justice to our leadership and this is another example of that issue being put in front of them.
- b. Darrell Waldon was the Acting Special Agent in Charge of the Washington D.C. Field Office at the time of this email.
- c. David Denning was the Acting Assistant Special Agent in Charge of the Washington D.C. Field Office at the time of this email.
- d. In these emails, my IRS leadership suggested not disclosing information to the investigative team and assigned prosecutors. Acting Special Agent in Charge Darrell Waldon at the time stated that he hasn't dealt with stuff like this that much.

16. **EXHIBIT 507:** The following is correspondence I had with my IRS leadership at the time regarding conducting witness interviews in the Hunter Biden Investigation. At the time of this email, David Denning was the Acting Assistant Special Agent in Charge of the Washington D.C. Field Office and Darrell Waldon was the Acting Special Agent in Charge of the Washington D.C. Field Office. This email is another example of more roadblocks that I encountered in conducting

the Hunter Biden investigation. During this same time period, as was previously presented and testified to, I was dealing with roadblocks put in place by the Delaware USAO and DOJ-Tax with conducting timely witness interviews and getting any requests approved. At this time, I was also working with leadership, who were acting management at the time in their position. I would like to note that in my email to Director of Field Operations Batdorf on September 23, 2021, I tell him about my diminished trust in management, and the fact that I had no where else to turn with all of my management team being actors. I can recall because of situations like this, DFO Batdorf told me that I could come to him to address any issues that I had.

17. **EXHIBIT 508A & 508B:** The following are two schedules that were included in my prosecution report that was sent to Department of Justice-Tax Division on or about February 25, 2022, for the Hunter Biden investigation. For reference, the schedules included are based on tax return records on file with the IRS as well as witness interviews for the 2014 and 2018 tax years.
18. If the committee has any follow up questions for me, or if they need my assistance in any way, please let myself or my Attorney Dean Zerbe know.

Dated: **September 19, 2023**

Joseph A. Zerbe