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BUSINESS MEETING ON DOCUMENTS PROTECTED UNDER  
INTERNAL REVENUE CODE SECTION 6103

Wednesday, September 27, 2023

House of Representatives,

Committee on Ways and Means,

Washington, D.C.

The Committee met, pursuant to call, at 10:33 a.m., in Room 1100, Longworth House Office Building, Hon. Jason Smith [Chairman of the Committee] presiding.

Chairman Smith. The Committee will come to order.

Mr. Smith, you are recognized for a motion.

Mr. Smith of Nebraska. Mr. Chairman, I ask unanimous consent that if the Committee votes to submit to the House any information, that the entire transcript of today's executive session proceedings be made public upon completion of our meeting.

Chairman Smith. Without objection, so ordered.

The gentleman from Nebraska is recognized for the purpose -- Mr. Schweikert, you are recognized for a motion.

Mr. Schweikert. Mr. Chairman, given the sensitivity surrounding the confidential taxpayer information, pursuant to House Rule XI(2)(g)(1), I move that the Committee enter into closed executive session for the consideration of materials protected under the Internal Revenue Code Section 6103.

Chairman Smith. The question is on entering into closed executive session for consideration of materials protected under Internal Revenue Code Section 6103.

The clerk will call the roll.

The Clerk. Mr. Buchanan?

Mr. Buchanan. Yes.

The Clerk. Mr. Buchanan, yes.

Mr. Smith of Nebraska?

Mr. Smith of Nebraska. Yes.

The Clerk. Mr. Smith of Nebraska, yes.

Mr. Kelly?

Mr. Kelly. Yes.

The Clerk. Mr. Kelly, yes.

Mr. Schweikert?

Mr. Schweikert. Yes.

The Clerk. Mr. Schweikert, yes.

Mr. LaHood?

[No response.]

The Clerk. Dr. Wenstrup?

Mr. Wenstrup. Yes.

The Clerk. Dr. Wenstrup, yes.

Mr. Arrington?

Mr. Arrington. Yes.

The Clerk. Mr. Arrington, yes.

Dr. Ferguson?

Mr. Ferguson. Yes.

The Clerk. Dr. Ferguson, yes.

Mr. Estes?

[No response.]

The Clerk. Mr. Smucker?

Mr. Smucker. Yes.

The Clerk. Mr. Smucker, yes.

Mr. Hern?

Mr. Hern. Yes.

The Clerk. Mr. Hern, yes.

Mrs. Miller?

Mrs. Miller. Yes.

The Clerk. Mrs. Miller, yes.

Dr. Murphy?

Mr. Murphy. Yes.

The Clerk. Dr. Murphy, yes.

Mr. Kustoff?

Mr. Kustoff. Yes.

The Clerk. Mr. Kustoff, yes.

Mr. Fitzpatrick?

Mr. Fitzpatrick. Yes.

The Clerk. Mr. Fitzpatrick, yes.

Mr. Steube?

[No response.]

The Clerk. Ms. Tenney?

[No response.]

The Clerk. Mrs. Fischbach?

Mrs. Fischbach. Yes.

The Clerk. Mrs. Fischbach, yes.

Mr. Moore?

Mr. Moore of Utah. Aye.

The Clerk. Mr. Moore, yes.

Mrs. Steel?

Mrs. Steel. Yes.

The Clerk. Mrs. Steel, yes.

Ms. Van Duyne?

Ms. Van Duyne. Yes.

The Clerk. Ms. Van Duyne, yes.

Mr. Feenstra?

Mr. Feenstra. Yes.

The Clerk. Mr. Feenstra, yes.

Ms. Malliotakis?

Ms. Malliotakis. Yes.

The Clerk. Ms. Malliotakis, yes.

Mr. Carey?

Mr. Carey. Yes.

The Clerk. Mr. Carey, yes.

Mr. Neal?

Mr. Neal. Yes.

The Clerk. Mr. Neal, yes.

Mr. Doggett?

Mr. Doggett. Yes.

The Clerk. Mr. Doggett, yes.

Mr. Thompson?

Mr. Thompson. Yes.

The Clerk. Mr. Thompson, yes.

Mr. Larson?

Mr. Larson. Yes.

The Clerk. Mr. Larson, yes.

Mr. Blumenauer?

Mr. Blumenauer. Aye.

The Clerk. Mr. Blumenauer, yes.

Mr. Pascrell?

Mr. Pascrell. Yes.

The Clerk. Mr. Pascrell, yes.

Mr. Davis?

Mr. Davis. Yes.

The Clerk. Mr. Davis, yes.

Ms. Sanchez?

[No response.]

The Clerk. Mr. Higgins?

[No response.]

The Clerk. Ms. Sewell?

Ms. Sewell. Yes.

The Clerk. Ms. Sewell, yes.

Ms. DelBene?

Ms. DelBene. Aye.

The Clerk. Ms. DelBene, yes.

Ms. Chu?

Ms. Chu. Yes.

The Clerk. Ms. Chu, yes.

Ms. Moore?

[No response.]

The Clerk. Mr. Kildee?

Mr. Kildee. Aye.

The Clerk. Mr. Kildee, yes.

Mr. Beyer?

[No response.]

The Clerk. Mr. Evans?

Mr. Evans. Yes.

The Clerk. Mr. Evans, yes.

Mr. Schneider?

[No response.]

The Clerk. Mr. Panetta?

Mr. Panetta. Yes.

The Clerk. Mr. Panetta, yes.

Mr. LaHood?

Mr. LaHood. Yes.

The Clerk. Mr. LaHood, yes.

Mr. Estes?

Mr. Estes. Yes.

The Clerk. Mr. Estes, yes.

Mr. Steube?

[No response.]

The Clerk. Ms. Tenney?

Ms. Tenney. Yes.

The Clerk. Ms. Tenney, yes.

Ms. Sanchez?

[No response.]

The Clerk. Mr. Higgins?

[No response.]

The Clerk. Ms. Moore?

[No response.]

The Clerk. Mr. Beyer?

[No response.]

The Clerk. Mr. Schneider?

[No response.]

The Clerk. Chairman Smith?

Chairman Smith. Yes.

The Clerk. Chairman Smith, yes.

Chairman Smith. The clerk will report the vote.

The Clerk. The ayes are 37; the noes are zero.

Chairman Smith. There being 37 ayes and zero noes, the motion is agreed to.

At this point, I ask that all members of the public, press, Member office staff, and non-designated Committee staff leave the room so we can enter into closed executive session.

[Pause.]

Chairman Smith. The Committee is now in executive session. And under House Rule XI, clause 2(k)(7), evidence taken in executive session may not be released or used in public sessions without authorization of the Committee.

We are in executive session because the matters and materials under discussion contain confidential taxpayer information protected by Section 6103 of the Internal Revenue Code.

Pursuant to Section 6103 (f)(4)(a), as chairman, I have designated the members and staff in this room as my agents for the duration of this executive session.

At this point, designated staff will distribute the materials under consideration.

I believe everyone has received their materials.

We are here to consider more than 700 pages of additional evidence provided to the Ways and Means Committee by two IRS whistleblowers, Gary Shapley and Joseph



Ziegler, who came forward at great risk to their careers and reputations to bring to light evidence of corruption and misconduct within our Federal Government.

Before we begin, I would like to remind those in this room that we will be discussing confidential tax information protected by Internal Revenue Code Section 6103. Unauthorized disclosure of tax information is a felony. Given the confidentiality of this information and the potential consequences of improper disclosure, the Committee takes the protection of this information extremely seriously.

On June 22nd, this Committee voted to release the initial testimony of the two IRS whistleblowers that showed wrongdoing and misconduct at both the IRS and Department of Justice, as well as a complex and lucrative enterprise operated by the Biden family to enrich themselves to the tune of at least \$20 million, with much of Hunter Biden's portion going unreported for taxes.

In the months since, no one has offered any evidence that contradicts Mr. Shapley and Mr. Ziegler's testimony. In fact, much of their testimony has been confirmed by additional IRS witnesses subpoenaed by this Committee.

The new information before us today again confirms their testimony and emphasizes the need for the Committee to continue our efforts to get to the bottom of what happened here and continue consideration of legislative solutions to make sure it doesn't happen again.

All members of the Committee have had an opportunity to review the new documents we are discussing today. Let's look at what this new evidence before us shows.

One, it is clear that then-Vice President Biden's political power and influence was, the "brand" that Hunter Biden was selling all over the world. Even more alarming, the Biden family foreign-influence-pedaling operation suggests an effort to sway U.S. policy

decisions.

On document 35, page 2, you will find a WhatsApp message from Hunter Biden to a business associate from June 6, 2017, where he explicitly states that he was not willing to, "sign over my family's brand," or give this individual, "the keys to my family's only asset." That asset could only be one person: Joe Biden.

If you turn your attention to Exhibit 301, in document 36, you will see evidence compiled by investigators tracing Hunter Biden's business activities and their connection to official government activity while Joe Biden served as Vice President of the United States.

The very existence of this file makes it abundantly clear that IRS investigators were concerned that a connection between Hunter Biden's global business dealings, Joe Biden, and official U.S. Government activity existed.

In one example, investigators documented how then-Vice President Biden's April 2014 official visit to Ukraine occurred only days after a series of meetings between Hunter Biden, Devon Archer, senior staff within the Vice President's office, and Vice President Biden himself.

During that same timeframe, a Burisma executive sent an email to Devon Archer saying a, "reasonable balance," could be reached about Hunter Biden. One month later, Burisma announced Hunter Biden's appointment to its board.

The file before us today also underlines that Hunter Biden's role as, "door opener" extended far beyond his father and includes numerous other meetings between Hunter Biden and senior U.S. Government officials, including now-Secretary of State Antony Blinken.

Two, the evidence shows the complexity and scale of the Biden family influence-pedaling scheme, with millions of dollars flowing through subsidiaries and LLCs

to avoid taxes and shield visibility into how the money from foreign sources, including countries like Ukraine, Russia, and China, moves to different entities and Biden family members. The whistleblowers' documents in front of us today specifically mention 23 foreign countries on 4 continents with connections to Hunter Biden's business operations.

Lastly, in the whistleblowers' original testimony, we learned that DOJ took unprecedented action to impede any investigative step that could have led to Joe Biden. On Document 23, page 1, you will find an email where U.S. Attorney Lesley Wolf directs investigators to remove all mention of, "Political Figure 1," from a search warrant.

And who is Political Figure 1, you ask? If you flip to Document 24, you will see that individual is none other than former Vice President Joe Biden. Here, we see clear as day that DOJ actively interfered in an investigation to protect the current President of the United States.

Additionally, in January of 2022, Attorney Wolf declined to pursue campaign finance violations identified by investigators potentially related to more than \$2 million in payments from Kevin Morris to cover Hunter Biden's unpaid tax liability. As you can see on Gary Shapley's third disclosure to the Committee, Attachment 14, Wolf stated she, "is not personally interested," in following the lead the investigators identified.

In an interview with investigators that can be found on Document 19, pages 11 and 12, James Biden, the President's brother, stated he did not know how Hunter Biden knew Mr. Morris or why Morris was helping his nephew. James Biden told investigators that Hunter Biden asked him to thank Mr. Morris for his payment, "on behalf of the family." It is reasonable to ask who requested he cover Hunter's tax liability or whether he received something in return for his more than \$2 million in payments to someone that he barely knew.

Based on this evidence and much more in the documents before us, along with

evidence obtained by the Judiciary Committee and the Oversight and Accountability Committee, I have serious concerns about whether the President of the United States may be compromised by his son's foreign business dealings and may be using his administration to protect himself and his family from scrutiny.

The American people have a right to know their elected representatives are not abusing public office to enrich themselves or their families. They also have a right to know if Federal law enforcement agencies are holding the powerful and the politically connected to the same standard of justice as everyone else.

I hope all my colleagues will support transparency and accountability here as we pursue further investigative actions and legislative solutions. Let's present this evidence to the American people so that they consider for themselves what this evidence means and what Congress should do about it.

Thank you.

I will now recognize Ranking Member Neal for his opening statement.

Mr. Neal. We are a little over 85 hours from another Republican-sponsored government shutdown. It means our servicemembers will work without pay and nearly 7 million women and children who count on nutrition assistance will go without.

I have been through many of these. You can write the final lyrics to this song as to how this is going to play out.

Let me begin by quoting a Member of Congress that I can't say that I know very well, Cory Mills: "We allowed ourselves to basically get so distracted with all the other shiny objects, we didn't actually get ahead of our real job, which is to be appropriators."

Today, another distraction -- a distraction from my colleagues' inability to govern and from their inability to fund government.

Amid the chaos, they have failed to convince their own colleagues of the necessity

of their political stunt, let alone the American people. So, until 1 o'clock this morning, they couldn't get more than 75 votes, on average, for amendments from those who apparently are steering the ship of the Republican Party.

In the words of Congressman Ken Buck, and I quote, "What's missing, despite years of investigation, is the smoking gun that connects Joe Biden to his ne'er-do-well son. Republicans in the House who are itching for an impeachment are relying on an imagined history."

Congress is a legislative body. We are not a law enforcement entity. And, thankfully, law enforcement wouldn't run an investigation like this. This revered Committee is now taking up impeachment?

Uncorroborated allegations were released to the American public. Only after did these Keystone Cops call additional witnesses in an attempt to see a fuller picture, and those high-ranking IRS officials disputed the allegations.

The additional Republican witnesses disputed Shapley and Ziegler's testimony, cutting right through my colleagues' purported argument. There was no retaliation. There was no political interference. Rather, it was these two supervisors who decided to remove Shapley back in December 2022 to protect the integrity of the case and to move it forward.

With no retaliation, I question our Committee's role. Why waste precious time that could be put toward keeping the government open, other than to distract from reality? Even our own chairman acknowledged the time crunch and that today would take place "before funding runs out."

It is not coincidental timing. Representative Tim Burchett of Tennessee said what everyone is thinking: "We are very dysfunctional right now." And if we don't act while the government is still open, who knows what we will then have for another

opportunity?

There is also pressure to produce in time for the first hearing of their fact-free impeachment inquiry. Even the Oversight chairman conceded that tomorrow is a stunt. He said, "The hearing is not expected to cover new ground," but, instead, will "rehash," his debunked conspiracy theories. Repeating lies will not make them facts, and the time that they are spending in Washington with the press corps won't fund the government.

The Republican Party does seem to think it is a surefire way to line their campaign coffers and curry favor with the former President.

I want to say, with great satisfaction: During the investigation of the former President's taxes, not one cable TV appearance, not one fundraising email took place as we handled a sensitive matter.

This work is not the will of the House, and a vote to open an impeachment inquiry would have failed, just as the two rule votes did earlier this month. I repeat: There has not been a formal vote of the House of Representatives to open an impeachment inquiry. It is not the work of the governing party, and it certainly isn't the work or will of the American people.

The documents under consideration today are cherry-picked and came to the Committee heavily redacted by Shapley and Ziegler. It is an incomplete picture because the majority hasn't declared an effort to request the documents more directly from agencies. Fully knowing that they have no legislative purpose, they are relying on a piecemeal transfer.

This Committee has no role here, and, as The Wall Street Journal put it over the weekend, the American people don't want an impeachment inquiry. It is distracting Republicans from fixing the problems.

Millions of women and children are at risk of losing their food assistance because

of our disinterest in government. How we are supposed to tell our constituents that FOX News hits were more important than the next meal is beyond me. Or what are we supposed to say to 2.2 million American workers who may go without a paycheck when Republicans shut down the government?

For this Republican majority, regardless of the evidence, all roads lead to impeachment. This is a sad day for the Committee, and it is a sad day for the Congress and for the American people.

And let me yield back.

Chairman Smith. The Committee will now proceed to consideration of the documents before you, which include a report prepared by the Committee on Ways and Means, five affidavits and accompanying exhibits provided to the Committee by IRS Special Agent Joseph Ziegler, and two cover letters and one affidavit and accompanying exhibits provided to the Committee by IRS Supervisory Special Agent Gary Shapley.

The materials have been available for member review in the Committee office since 1:00 p.m. on September 25th.

I will now turn to Sean Clerget, chief oversight counsel, to provide a brief description of the materials for consideration. I would ask that members hold their questions until after his presentation.

Mr. Clerget, you are recognized.

Mr. Clerget. Thank you, Mr. Chairman.

Chairman Smith, Ranking Member Neal, members of the Committee, the documents Chairman Smith is presenting to the Committee here today contain information related to Internal Revenue Code, 26 U.S.C., Section 6103.

Section 6103 makes tax returns and return information confidential, subject to specific authorizations or exceptions in the statute. The statute anticipates and allows

for whistleblowers to come forward and share information with Congress under Section 6103(f)(5) if the whistleblower has or had access to return or return information and believes such return or return information may relate to possible misconduct, maladministration, or taxpayer abuse.

Specifically, the statute permits a person with access to returns or return information to disclose that information to the Committee on Ways and Means or any person designated by the chairman to receive such information.

Our tax privacy laws also allow for a process by which this Committee can receive information, consider it, and submit it to the House of Representatives. That process has been used several times in the Committee's history, including three times in the past 5 years:

In 2019, the Committee considered and voted to submit historical materials from the Joint Committee on Taxation that contained tax information related to President Nixon.

On December 20, 2022, the Committee voted to release former President Trump's full tax returns for multiple years and for multiple entities, along with a package of other documents that included Internal Revenue Service audit files related to those tax returns.

On June 22, 2023, the Committee voted to release the transcribed interview transcripts of two IRS whistleblowers, Joseph Ziegler and Gary Shapley, along with two supplemental documents that accompanied the transcripts and a letter from the IRS Commissioner, included at the request of the minority.

With regard to these documents, I will provide a timeline of events leading to the Committee receiving these materials.

Chairman Smith, Ranking Member Neal, and the chairs and ranking members of other House and Senate committees received a letter on April 19th from counsel for an



IRS criminal supervisory special agent, who we now know as Gary Shapley. That letter outlined at a high level the nature of information Mr. Shapley wished to share with the Committee.

Majority and minority Committee staff received an attorney proffer from Mr. Shapley's legal counsel and then scheduled a voluntary interview.

On May 15, 2023, the Committee received another letter from Mr. Shapley's legal counsel notifying the Committee that Mr. Shapley and his entire investigative team had been removed from the relevant investigation.

After that removal, the Committee received a letter from an IRS criminal investigator's legal counsel noting that Whistleblower 2, who we now know as Joseph Ziegler, shared Mr. Shapley's concerns and was willing to speak with the Committee.

On May 26th and June 1st, Committee staff conducted voluntary transcribed interviews of Mr. Shapley and Mr. Ziegler. Each interview lasted approximately 7 hours. To ensure a complete and thorough disclosure was made, information protected by 6103 was discussed.

On June 22nd, the Committee held an executive session to consider those transcripts and the related materials, and ultimately voted to submit those materials to the House of Representatives and to release a transcript of that closed session.

On July 19th, Mr. Shapley and Mr. Ziegler testified before the Oversight and Accountability Committee in a public hearing. During the hearing, they noted that they could not answer certain questions in an open setting but would provide information to the Committee on Ways and Means with additional information under Section 6103 that may be responsive to those questions.

Both Mr. Ziegler and Mr. Shapley provided documents over several weeks in August and September. Each production of documents was provided by the

whistleblowers to the Committee majority and to the minority staff designated under Section 6103.

Chairman Smith decided to present those materials to the Committee for consideration today. The documents include the following: a Committee report related to the documents; five affidavits and related exhibits submitted by Mr. Ziegler received between August 22nd and September 20th.

The affidavits describe exhibits that were produced. The exhibits include the following types of documents: worksheets related to recommended tax charges; email correspondence related to recommended tax charges and the investigation itself; email correspondence between Hunter Biden and associates; WhatsApp, WeChat, and iMessages between Hunter Biden and associates; an investigative timeline related to Burisma, contacts between Hunter Biden and U.S. and foreign government officials, and official government activities; FBI FD-302 memoranda of interviews; and a transcript of an interview with a Hunter Biden associate.

Mr. Shapley provided three productions of documents, along with cover letters, to the Committee between September 11th and September 20th. He labeled those materials as attachments, and they include: email chains relating to an October 7, 2022, meeting and emails related to concerns Mr. Shapley raised internally, along with notes from a conversation about making protected disclosures to Congress; a redacted and unredacted copy of Mr. Shapley's notes from the October 7, 2022, meeting; a written statement from Mr. Shapley regarding certain documents. And the attachments also include email chains, case reports, and memoranda of conversations regarding the investigation of Hunter Biden.

Many of the documents produced to the Committee contained redactions. The Committee's majority and minority staff reviewed the materials, and minority staff had

the opportunity to propose additional redactions.

Consistent with the Committee's practice to redact personally identifiable information, the Committee made minimal additional redactions to protect email addresses, phone numbers, addresses, and any identifying numbers specific to an investigation, case, or account.

Attached to the report before you as Appendix A is a description of the redactions made by the Committee. Appendix B to the report is a table of contents for the materials, created by Committee staff, to assist members with navigating the materials.

That concludes my overview. Thank you. And I am happy to take your questions.

Chairman Smith. Are there any technical questions?

Mr. LaHood.

Mr. LaHood. Thank you, Mr. Chairman.

And my technical questions this morning are going to focus on Kevin Morris and his partnership role and fiduciary relationship with Hunter Biden.

Prior to the new information we are receiving today, we know a couple things about Kevin Morris. One is, he is a wealthy Hollywood lawyer. We also know that he was enlisted to help the Biden family. We know that from the sworn affidavits that we received prior to this.

Mr. Clerget, I would like to walk through and turn your attention to Ziegler Exhibit 401 in tab 19. Can you tell me when you have that document before you?

Mr. Clerget. Okay. Looking at it.

Mr. LaHood. What is that document?

Mr. Clerget. This is a memorandum of an interview, an IRS criminal investigation interview, with James Biden.

Mr. LaHood. And who is James Biden?

Mr. Clerget. The brother of President Joe Biden and Hunter Biden's uncle.

Mr. LaHood. And this interview took place on September 29, 2022, in New York?

Mr. Clerget. That is correct.

Mr. LaHood. And who was present at that interview of the President's brother, James Biden?

Mr. Clerget. Mr. Biden's legal counsel; Special Agent Joseph Ziegler; Special Agent Christine Puglisi; other individuals from the IRS and FBI; Lesley Wolf and Carly Hudson, who are assistant United States attorneys; and Mark Daly, attorney at DOJ Tax Division.

Mr. LaHood. And the two assistant U.S. attorneys, Lesley Wolf and Carly Hudson, worked for Mr. Weiss, correct?

Mr. Clerget. That is correct.

Mr. LaHood. How does this document describe the relationship between James Biden and Hunter Biden?

Mr. Clerget. It notes that they have a very close personal relationship and also a business relationship.

Mr. LaHood. And, referring you to paragraph 6, it also says Hunter Biden was James's, "best friend," and "that is still the case to this day,".

Mr. Clerget. Yes, I see that.

Mr. LaHood. And, when reading through the interview, it becomes clear that James Biden was closely involved in many Biden-family business ventures. Is that accurate?

Mr. Clerget. Yes.

Mr. LaHood. Mr. Clerget, turning your attention to pages 11 and 12, what do

these materials say about James Biden's knowledge of Kevin Morris?

Mr. Clerget. Mr. James Biden suggested that he didn't really know Mr. Morris and didn't know how he had helped Hunter Biden.

Mr. LaHood. I want to refer you to paragraph 51(a). And it says in there, quote, "Morris is a" -- this is from James Biden: "Morris is a very wealthy guy. Morris has befriended RHB," or Hunter, and James Biden "didn't know why or when this occurred," unquote.

Is that accurate?

Mr. Clerget. Yes, that is correct.

Mr. LaHood. And then, referring to paragraph 51(c), it also says, "Morris was helping Hunter a lot, but James didn't know why. Hunter asked James Biden to thank Morris because Morris requested a thank you. James Biden had no knowledge of what Morris had done for Hunter."

Is that accurate?

Mr. Clerget. That is correct.

Mr. LaHood. Did James Biden say anything about payments from Kevin Morris to Hunter Biden? And I am referring to paragraph 51(c).

Mr. Clerget. Yes. He said he was not sure if there was a loan between Morris, but he thought the money was significant enough that RHB asked his uncle to say something to Morris and thank him.

Mr. LaHood. And, referring to paragraph 51(h), is it accurate that James Biden again said he was not aware if Morris asked Hunter for anything else other than a thank you, and also mentioned that Hunter was very "close-lipped about Morris," unquote?

Mr. Clerget. Yes, that is correct.

Mr. LaHood. In addition, under 51(i), James Biden heard recently that, because

of Hunter's attorneys, Morris may not want to, quote, "play ball anymore," and James Biden was unsure what exactly this meant.

Mr. Clerget. I see that.

Mr. LaHood. And that was part of his interview and affidavit.

These documents and the statements made under oath, or subject to the penalty of perjury, by James Biden raise significant questions that I believe need to be answered.

At this time, Mr. Chairman -- I see my time is expiring -- I am going to pause here and hope to continue this line of inquiry.

Chairman Smith. Okay. Thank you, Mr. LaHood.

Mr. Neal.

Mr. Neal. Thank you. I would like to yield my time to Mr. Doggett.

Chairman Smith. Mr. Doggett.

Mr. Doggett. Thank you.

Mr. Clerget, I gather, by the fact that you are here presented as a witness and you are the staff director of the Oversight Committee, that you are leading the collection of these documents and the investigation associated with it?

Mr. Clerget. Yes, sir.

Mr. Doggett. With reference to the documents that we have here, the 700 pages, are all of those pages from the whistleblowers?

Mr. Clerget. Yes. I noted in my opening that the report was created by the Committee, along with the appendices, to include the table of contents --

Mr. Doggett. Are there any documents the whistleblowers provided that are not included in the 700 pages?

Mr. Clerget. There are two documents. Whistleblower -- Mr. Ziegler -- submitted a document that was titled "Draft Affidavit" along with what was titled "Final

Affidavit." We produced the final version of that affidavit, but minority staff does have that draft.

Mr. Doggett. Otherwise, everything is in here, in the 700 pages?

Mr. Clerget. Yes. Additionally, Affidavit 5 from Mr. Ziegler he submitted to the Committee and then, the next day, submitted an updated or modified version, and we have only provided the latest version.

Mr. Doggett. Did the Committee at any time submit the type of formal 6103 request to the Internal Revenue Service that is normally done in this kind of investigation?

Mr. Clerget. I am not sure what type of formal request you mean, but with regard to these documents --

Mr. Doggett. Have you asked -- at any time in your investigation, have you asked the Internal Revenue Service, pursuant to 6103, to supply documents?

Mr. Clerget. A formal document request on this matter, no.

Mr. Doggett. On any -- so the only information you have is what the whistleblowers provided, not any information concerning this from the Internal Revenue Service.

Mr. Clerget. That is correct.

Mr. Doggett. Okay.

Now, my concern is to see what involvement, if any, President Joe Biden, as Vice President or otherwise, might have had in this. And I have only had a short time to look through these documents, but I have tried to identify any that purport to provide direct evidence that Joe Biden did something wrong, because if he did, I have not the slightest interest in covering it up.

Am I correct that the summary of a purported FBI interview on October 23rd of 2020 of Tony Bobulinski appears to be one document suggesting corrupt conduct by Joe

Biden?

Mr. Clerget. I think that is a fair characterization of one of the documents.

Mr. Doggett. Okay. And you have provided only a summary of that document, just as you provided only a memorandum of interview or summary of the interview you were just discussing with Mr. LaHood.

Given the seriousness of these matters, have you requested the interview transcript in either one?

Mr. Clerget. No.

Mr. Doggett. Why not?

Mr. Clerget. I think that is something we will consider pursuing, but it is ultimately up to the Committee and the Chairman on documents to request as we continue our investigation.

Mr. Doggett. Mr. Bobulinski, as you know, has seemed very eager -- indeed, overeager -- to tell his story, including the interview he did with Tucker Carlson.

Has the Committee been in touch with Mr. Bobulinski?

Mr. Clerget. No, sir.

Mr. Doggett. You have taken depositions of a number of individuals. Have you asked Mr. Bobulinski to provide a deposition?

Mr. Clerget. Not at this time.

Mr. Doggett. You know, to hear what he told Tucker Carlson, I get the impression he is just dying to tell his story.

The FBI report refers to him having access to multiple texts. Do you have all of those?

Mr. Clerget. Sorry, multiple texts from whom?

Mr. Doggett. I don't know from whom or to whom, but in the document that



you provided there at tab 58, it says that Mr. Bobulinski says he has multiple texts.

Mr. Clerget. Yeah, so we have -- in this material before you, there are WhatsApp messages that include messages between Mr. Bobulinski and a number of Hunter Biden's associates and Hunter Biden.

As to whether that is all the texts that he has referred to, I don't know the answer to that.

Mr. Doggett. Well, he told Tucker, and I quote, "I have thousands of documents, text messages, WhatsApp conversations, recording of the sitting President in his own voice."

Weren't you curious to at least hear the recording of Joe Biden in his own voice about these matters?

Mr. Clerget. Was I curious?

Mr. Doggett. Well, I would think, if you are trying to do a complete investigation rather than just some smear job, you would want to have the original transcript, and if we have the President of the United States, in his own voice, according to Mr. Bobulinski, out there being part of a corrupt family enterprise, you would want to hear it.

Mr. Clerget. I think those are all documents we would consider requesting as we continue our investigation.

Mr. Doggett. Well, has anything prevented you from requesting them before proposing to --

Chairman Smith. Mr. Doggett, your time has expired.

I will respond, Mr. Doggett, in regard to Mr. Bobulinski. From my understanding, there will be another Committee that will be having him testify before Congress to answer a lot of the questions you are asking. It is just not the Ways and Means Committee that is doing it, but I am under strong impression it is the Oversight

Committee.

Mr. Doggett. Well --

Chairman Smith. Mr. Buchanan.

Mr. Buchanan. I yield my time to Mr. LaHood.

Mr. LaHood. Thank you, Mr. Buchanan.

Mr. Clerget, I want to pick up where I left off, talking about James Biden's interview and affidavit and a number of questions that were raised regarding Kevin Morris.

Particularly, how and why did Kevin Morris enter the Biden-family business dealings? Secondly, why did Hunter want to keep Kevin Morris a secret from James Biden? And how much money did Kevin Morris give to the Bidens for tax liens? And what does it mean that Kevin Morris doesn't want to, quote, "play ball," as James Biden said, anymore with the Bidens?

Mr. Clerget, referring to the Ziegler Affidavit 1, what other details can you mention regarding Kevin Morris? I am specifically referring to paragraph 8.

Mr. Clerget. So, in the affidavit, Mr. Ziegler recounts that payments were made in 2020, I believe.

Mr. LaHood. And it also states in paragraph 8 that Biden's delinquent tax bills were from years 2015 to 2019 and, quote, "were paid by a third party, Kevin Patrick Morris," unquote.

Mr. Clerget. Yes, that is correct.

Mr. LaHood. In addition to that, paragraph 21 summarizes an interview with Jeffrey Gelfound, the accountant tasked with addressing Biden's unpaid taxes.

Quote, it mentions in there, "Hunter was shown his 2017 and 2018 tax liabilities and elected to not remit the tax payments and implied that he had no resources to pay

these taxes at that time."

Gelfound further stated that the delinquent payments made by Kevin Morris were prioritized based on urgency. And Gelfound also mentioned potential media attention due to the lien, essentially prioritizing those tax payments.

Is that accurate?

Mr. Clerget. Yes, that is correct.

Ms. Sanchez. Will the gentleman yield?

Mr. LaHood. I will not.

Ms. Sanchez. No, no, no. It is just for a point of clarification.

Mr. LaHood. I will not.

Ms. Sanchez. I am just asking if you would please --

Chairman Smith. The gentleman does not yield.

Ms. Sanchez. If you would --

Chairman Smith. You are out of order, Ms. Sanchez.

Ms. Sanchez. If, in your questioning, you could please identify which Biden --

Chairman Smith. You are out of order, Ms. Sanchez.

Ms. Sanchez. -- because when you say "Biden," there are three different Bidens.

Chairman Smith. You are out of order, Ms. Sanchez. He did not yield. And the gentleman from --

Ms. Sanchez. Mr. Chairman, point of parliamentary inquiry.

Chairman Smith. State your inquiry.

Ms. Sanchez. My inquiry is, do members of the Committee need to clarify which person they are speaking about? Because when the last name "Biden" is --

Chairman Smith. That is not a parliamentary inquiry.

Ms. Sanchez. Yes, because for clarification --

Chairman Smith. Mr. LaHood, please proceed.

Ms. Sanchez. When asking questions, I am unsure which Biden he --

Chairman Smith. That is not a parliamentary inquiry. That is a debate. The gentleman from Illinois has the floor, Ms. Sanchez.

Ms. Sanchez. Parliamentary inquiry, Mr. Chairman.

Chairman Smith. You are not recognized. The gentleman from Illinois has the floor.

Mr. LaHood. Mr. Clerget, continuing with this line of questioning --

Mr. Neal. Mr. Chairman?

Mr. LaHood. -- I want to direct your attention to --

Chairman Smith. Mr. Neal?

Mr. Neal. Let me ask --

Mr. LaHood. -- Ziegler Exhibit 1B.

Chairman Smith. Mr. LaHood, would you pause for a second?

Mr. Neal. Mr. Chairman, a reasonable person would conclude that the member should refer to which Biden he is talking about. That is reasonable.

Ms. Sanchez. It is confusing if you don't --

Chairman Smith. I thank the gentleman.

The gentleman from Illinois is recognized.

Ms. Sanchez. It is confusing if you don't state which --

Mr. LaHood. So I will --

Ms. Sanchez. -- person you are talking about.

Mr. LaHood. So I think this question will clarify it for you.

Mr. Clerget, I am going to direct your attention to Ziegler Exhibit 1B, tab 2. And if you will open to that section there.

And everyone is welcome to do that. Exhibit 1B, tab 2.

Are you there?

Mr. Clerget. Yes.

Mr. LaHood. Okay. When did Hunter Biden's delinquent taxes start getting paid?

Mr. Clerget. I believe it is 2020.

Mr. LaHood. Would it be January 28th of 2020?

Mr. Clerget. Yes.

Mr. LaHood. And, Mr. Clerget, I would like to direct your attention to Shapley Attachment 14, tab 95. Can you explain what this document is?

Mr. Clerget. One moment.

Yes. This is an IRS Criminal Investigation monthly significant case report, and the date is May 2021.

Mr. LaHood. And, looking at the third paragraph of that document, Attachment 14, tab 95, where it says, "Through interviews and review of evidence...it appears there may be campaign finance criminal violations," do you see that?

Mr. Clerget. Yes, sir.

Mr. LaHood. The report continues that "[Assistant U.S. Attorney] Wolf stated on the last prosecution team meeting that she did not want any of the agents to look into [this campaign finance allegation],".

Do you see that?

Mr. Clerget. Yes.

Mr. LaHood. Mr. Clerget, who is AUSA, or Assistant U.S. Attorney, Wolf?

Mr. Clerget. Ms. Lesley Wolf is an assistant United States attorney in Delaware working under U.S. Attorney Weiss.

Mr. LaHood. And she was one of the lead prosecutors, correct?

Mr. Clerget. That is correct.

Mr. LaHood. Wolf explains ignoring the campaign finance questions by saying there is, "a need to focus on the 2014 tax year."

Mr. Clerget, did DOJ file charges for unpaid taxes in 2014?

Mr. Clerget. No, sir.

Mr. LaHood. In fact, they let the statute of limitations run on that, correct?

Mr. Clerget. Based on the information we have received from the whistleblowers, yes, that is correct.

Mr. LaHood. So Hunter Biden's delinquent taxes for those years were never collected and he was never prosecuted or charged with that, correct?

Mr. Clerget. Correct.

Mr. LaHood. I am out of time. I yield back.

Chairman Smith. Mr. Doggett is recognized.

Mr. Doggett. Thank you.

Directing your attention to Exhibit 300, at tab 35, what is that?

Mr. Clerget. So this is a compilation of messages between Hunter Biden and a number of associates.

Mr. Doggett. Okay. And are some of those associates his father?

Mr. Clerget. I don't believe so. He does list the names on his Affidavit No. 3, paragraph 4.

Mr. Doggett. Is there any indication in any of those -- and these are not the actual transcripts of the messages; they are a summary. Is that right?

Mr. Clerget. So there are quotation marks in here, so that they are compilations by the investigators of the messages, and then they --

Mr. Doggett. And what is the next one, Exhibit 301?

Mr. Clerget. 301 -- and I want to make sure I refer to Mr. Ziegler's affidavit and how he describes the document.

So he says that he, along with other FBI and IRS investigators, created a document timeline which was utilized throughout the investigation. It included emails, attachments, and other information recovered, and then was put together, I believe, by Mr. Ziegler.

Mr. Doggett. So we have got lots of Hunter emails, Hunter WhatsApp. Is there any indication in any of them of President Joe Biden -- then-Vice President Joe Biden being involved with any of Hunter's business endeavors?

Mr. Clerget. So, in Exhibit 300, there are a number of references to Joe Biden.

And then, in Exhibit 301, which is tab 36, you can see Mr. Ziegler putting together a timeline here that overlays meetings and contacts with U.S. Government officials in connection with then-Vice President Biden's travel.

Mr. Doggett. But nothing that shows any direct contact by Joe Biden with any of these businesses.

Mr. Clerget. Direct contact?

Mr. Doggett. Going back to Mr. Bobulinski -- because that does appear to be the one that is pointing a finger not at the so-called Biden family or Hunter Biden or brother of Joe Biden but at Joe Biden in particular -- this is the same Tony Bobulinski, I believe, whom Donald Trump invited to attend his October 2020 debate and who held a press conference before that debate talking about the same May 2017 meeting that is referred to in the summary here, in which he said, "I have heard Joe Biden say that he has never discussed business with Hunter. That is false. I have firsthand knowledge about this because I directly dealt with the Biden family, including Joe Biden."

So he said that at a press conference back in October 2020. At no time have you sought to get his testimony?

Mr. Clerget. Mr. Bobulinski's testimony?

Mr. Doggett. Yes.

Mr. Clerget. Not as of yet.

Mr. Doggett. Well, you are releasing -- you are proposing to release today a document in which he makes these claims of corruption by Vice President Joe Biden without ever having talked to him, without having gotten the transcript of his testimony, someone who didn't exactly choose objective places to make his comments. And it just appears that you are releasing a blowhard here who has never been fully investigated.

And it is somewhat ironic that it comes directly from Donald Trump, who seems to be pulling the strings here today, having had four indictments, having been found responsible for fraud, for assault, for defamation. I understand his desperation, but it would seem to me, if we are going to release 700 pages, there would have at least been a bit of thoroughness in the way this is handled.

Instead, we just have wild allegations without proof. And I am just amazed at -- can you point to anything in any of these documents, other than Mr. Bobulinski's testimony, in which someone says that Joe Biden personally did anything wrong?

Mr. Clerget. There are a number of references to Joe Biden throughout all --

Mr. Doggett. Yes --

Mr. Clerget. -- these materials --

Mr. Doggett. -- there are references to him. He is the President. He was the Vice President. He is the father of Hunter Biden, who engaged in some obvious wrongdoing.

But is there anything in the 700 pages that you can point me to, other than



Mr. Bobulinski, in which someone accuses Joe Biden of being corrupt, of having been involved in Hunter's business opportunities in any way?

Mr. Clerget. I think there is information in these materials that suggests that Joe Biden may have been involved in Hunter Biden's --

Mr. Doggett. I am not talking about --

Mr. Clerget. -- business --

Mr. Doggett. Well, just point them out and outline for us exactly who is saying Joe Biden was corrupt and that he was involved in the business dealings. Because all I see here is innuendo and suggestion and brash conclusions, but no specific evidence.

Mr. Clerget. Well, I think it is ultimately the Committee that should characterize and --

Mr. Doggett. Well, they have --

Mr. Clerget. -- debate what the evidence means.

Mr. Doggett. Yeah. They have characterized it without any evidence.

I yield back.

Chairman Smith. Mr. Doggett, I look forward to hearing more during "strike the last word." I just want to make sure everyone has a chance to ask Sean technical questions.

I would also love to point out that the 700 pages of documents that you are talking about are all presented to us by the two IRS whistleblowers because they testified before the Oversight Committee in July, were asked questions from Democrat and Republican Members that they couldn't answer publicly, and they said they would submit this information to the Committee.

And that is, in fact, why we are having a hearing only on the documents that we didn't ask for but other Members of Congress, including Democrats and Republicans,

asked for in the Oversight Committee.

Mr. Doggett. But you have not --

Chairman Smith. Mr. Kustoff --

Mr. Doggett. You have not asked for anything from the IRS to date. You have not followed the regular 6103 process for requesting documents.

Chairman Smith. Mr. Kustoff, you are recognized.

Mr. Kustoff. Thank you, Mr. Chairman.

Mr. Clerget, if I could, could I ask you to turn to tab 23 in this booklet?

It purports to be an email from Assistant U.S. Attorney Lesley Wolf, dated August the 7th of 2020. Is that correct?

Mr. Clerget. Yes, that is correct.

Mr. Kustoff. And the email is to a number of people -- looks like an FBI agent and Assistant U.S. Attorney Carly Hudson -- and other people are CC'ed.

On the subject line, it is "BS SW Draft." "SW" stands for "search warrant"?

Mr. Clerget. That is my understanding.

Mr. Kustoff. And do you know what "BS" stands for?

Mr. Clerget. I do not.

Mr. Kustoff. Okay.

It talks about needing to redraft "attachment B." Is that the search warrant that is being talked about in the email?

Mr. Clerget. That is my understanding.

Mr. Kustoff. And it talks about that the focus should only be on FARA evidence. "There should be nothing about Political Figure 1 in here."

First of all, does "in here" mean the search warrant?

Mr. Clerget. That is my understanding.

Mr. Kustoff. And do you know who Political Figure 1 is?

Mr. Clerget. Based on the documents we have received, yes.

Mr. Kustoff. And who is Political Figure 1?

Mr. Clerget. I believe it is the next document. It shows that Political Figure 1 is former Vice President Joseph Robinette Biden, Jr.

Mr. Kustoff. And August 7th of 2020 is a time when Joe Biden is running to be President of the United States?

Mr. Clerget. Yes.

Mr. Kustoff. The email purports that the search warrant would not include -- was not to include any information about Joe Biden or pertain to Joe Biden. Is that right?

Mr. Clerget. That is how I understand the email, yes.

Mr. Kustoff. And that was at the direction of Lesley Wolf --

Mr. Clerget. Yes.

Mr. Kustoff. -- correct? Thank you.

If I can now ask you to turn to the Ziegler affidavit. This is the first affidavit of Agent Ziegler.

On paragraph 24 of the affidavit, Special Agent Ziegler talks about a payment of \$17.3 million, and not to include a \$1 million payment.

This is a payment to Hunter Biden and his business partners. Is that right?

Mr. Clerget. That is my understanding. The 17.3 number was Mr. Ziegler's testimony before the Committee previously, that that was the total number of transfers. So it is not one payment but the total of multiple payments.

Mr. Kustoff. Okay.

This affidavit is dated August the 2nd of this year, correct?

Mr. Clerget. Yes.

Mr. Kustoff. Special Agent Ziegler references a \$1 million payment from the CEFC. Do you know what the CEFC is?

Mr. Clerget. That is a Chinese energy company that Hunter Biden and his business associates are communicating with about business dealings.

Mr. Kustoff. Do we know who Patrick Ho is, H-o?

Mr. Clerget. Yes. Patrick Ho was a CEFC official and was someone that Hunter Biden and his associates communicated with.

Mr. Kustoff. Thank you.

Did Special Agent Ziegler identify any additional payments?

Mr. Clerget. So, in this same paragraph, he is detailing several additional payments. You mentioned the \$1 million, and then at the bottom of that paragraph he mentions another payment of at least \$700,000. Same paragraph.

Mr. Kustoff. When you total all these payments, I think he identifies that they are over \$19 million in payments to Hunter Biden and his associates?

Mr. Clerget. That is correct.

Mr. Kustoff. Thank you.

I yield back my time.

Chairman Smith. Mr. Schneider is recognized.

Mr. Schneider. Thank you.

And, Mr. Clerget, as you know, I am not a lawyer, but I am going to try to understand the whistleblower disclosure part of 6103, if you will help me a little bit. But I am going to use pedestrian examples.

For example, if a nosy neighbor is wondering how the guy across the street has fancy new cars, taking extraordinary trips, whatever the case might be, is he able to access the databases in the IRS to get information that might expose his neighbor?

Mr. Clerget. I don't believe so, no.

Mr. Schneider. Okay. What if he worked at the IRS? Would he be allowed to access that information on his neighbor to try to expose and then blow the whistle on the neighbor?

Mr. Clerget. I think it would depend on the circumstances and the purpose of the inquiry.

Mr. Schneider. What would be the circumstances? I mean, if it is just an IRS agent, not working on any case specific to that neighbor, would he be able to look into information, pull the tax returns or emails that might be in IRS investigations outside of his area? Would he be able to access that?

Mr. Clerget. I don't believe so, but I am not 100 percent sure on the exact access of every agent in the IRS.

Mr. Schneider. Okay. But isn't there a privacy clause? I mean, aren't there some protections for taxpayers to say that their tax returns information, information that the IRS might have about their taxes or financial circumstances, aren't those private?

Mr. Clerget. Yes, sir.

Mr. Schneider. All right.

So the reason I am asking is, you know, I have some real concerns about the documents being shared with us under this 6103, section (f), paragraph 5.

In fact, the ranking member, I believe, sent a letter to you regarding our concerns on July 28th. Is that correct?

Mr. Clerget. I believe he sent it to Chairman Smith.

Mr. Schneider. All right. Actually, you are right.

What I would like to ask is unanimous consent to submit that letter to the record.

Chairman Smith. Without objection.

Mr. Schneider. Okay.

[The information follows:]

\*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

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## U.S. House of Representatives

COMMITTEE ON WAYS AND MEANS  
1139 LONGWORTH HOUSE OFFICE BUILDING  
Washington, DC 20515

July 28, 2023

The Honorable Jason Smith  
Chairman  
Committee on Ways and Means  
1139 Longworth House Office Building  
Washington, D.C. 20515

Dear Chairman Smith,

I write today to express my concern about the use of federal employees to access and disclose federal tax information under Section 6103 of the Internal Revenue Code (Code) in a manner that could expose them to penalties for violations of the Code. I am aware that two whistleblowers have been asked by congressional committees to locate, obtain, and disclose to the Ways and Means Committee (Committee) additional files from a case to which the whistleblowers are no longer assigned. The Committee should not attempt to use these whistleblowers as conduits to bypass statutory protections applicable to confidential federal tax information. Any requests for additional documents from the case files should be made to the Commissioner of the Internal Revenue Service (IRS) pursuant to provisions in the Code and established procedures in place for congressional committees, not through the whistleblowers. The Committee must follow the law.

As you know, Section 6103 provides that tax returns and return information (collectively, "federal tax information") shall be confidential. Unless authorized, no employee of the United States, including an IRS employee, shall inspect or disclose any returns or return information. The term "return information" includes any data received by, recorded by, prepared by, furnished to, or collected by the IRS with respect to a return or with respect to the determination of the existence, or possible existence, of liability (or the amount thereof) of any person of any tax. This includes case files related to taxpayer audits and investigations and the contents therein.

The Code imposes penalties for unauthorized inspection or unlawful disclosure, or both, of federal tax information. Section 7213A states that it is unlawful for any IRS employee to willfully inspect, unless authorized by this title, any return or return information. Section 7213 provides that it is unlawful for IRS employees to willfully disclose any tax return or return information to any person unless an exception applies. Members of other congressional committees may not have been aware of these provisions when they asked the whistleblowers to go back into Section 6103-protected case files, gather additional documents, and disclose them to the Committee when the whistleblowers are no longer assigned to the case.

Although there are provisions that authorize inspection and provide for disclosure, there is no blanket provision authorizing IRS employees to indefinitely inspect or access and disclose files related to

their prior cases. Thus, to avoid violating Section 6103, IRS employees must be authorized to review federal tax information at the time it is accessed and authorized to disclose such properly-accessed information as prescribed by the Code.

In general, IRS and Treasury employees are authorized to inspect federal tax information (including case files) if they satisfy the requirements of Section 6103(h)(1) at the time of review. This section provides that tax returns and return information shall, without written request, be open to inspection by or disclosure to IRS employees whose official duties require such inspection or disclosure for tax administration purposes.

With respect to the two whistleblowers, the case at issue is no longer part of their official duties. During the transcribed interviews, the whistleblowers stated that they were removed from the case on May 15, 2023. Thus, any inspection or review by them of the case files after May, and any ongoing inspection, does not appear to satisfy the requirements of Section 6103(h)(1) and may expose them to penalties.

In addition, the exception for disclosures pursuant to Section 6103(f)(5) appears to only apply if a whistleblower is authorized to access the federal tax information at the time it was obtained. Section 6103(f)(5) provides that any person who otherwise has or had "access to any return information under this section" may disclose such return or return information to the Committee if "such person" believes such return or return information may relate to possible misconduct, maladministration, or taxpayer abuse. This section provides an exception for disclosure of, and not access to, returns and return information by a whistleblower. Initial documents from the case files were disclosed to the Committee on May 25, 2023.

Now, two months later, the whistleblowers are being asked to go back into the protected case files (after they are no longer assigned to the case) and review, extract, and disclose to the Committee additional federal tax information beyond what was initially provided. Unless an exception applies, such additional access and review of the case files and disclosure of extracted documents to the Committee would not be permissible. Any case files the whistleblowers have are "return information" protected under Section 6103 of the Code. They are not exempted from the statutory safeguarding procedures that apply to returns and return information. Thus, to disclose additional documents from the case files pursuant to Section 6103(f)(5), it appears that the whistleblowers must be authorized to access and review the case files under Section 6103 at the time of each additional search and extraction.

It does not appear that Section 6103(f)(5) requirements are satisfied for documents accessed and disclosed after May. First, as stated above, the requirements of Section 6103(h)(1) do not appear to be met, as the whistleblowers are no longer assigned to the case and further inspection seems to fall outside of their official duties. Second, without authorized access, the exception for disclosure of properly accessed documents in Section 6103(f)(5) does not appear to apply. Third, Section 6103(f)(5) requires "such person" (*i.e.*, the whistleblower) to believe that the federal tax information being disclosed may relate to possible misconduct, maladministration, or taxpayer abuse. If the whistleblowers are being directed to review, obtain, and disclose information by Members of Congress (months after the initial disclosure), it is the requesting Members who are choosing the information to disclose based on their beliefs and not the belief of the whistleblower.

The Committee needs to protect federal tax information and ensure compliance with the law. As I have stated from the beginning, the Committee is not a law enforcement body and should not be used to conduct investigations against a private citizen or intervene in Executive Branch enforcement decisions,



Chairman Smith  
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examinations, or investigations, or judicial proceedings. The Committee also should not direct any federal employees, including whistleblowers, to risk violating the law. Tax law and established procedures must be followed to access and receive protected federal tax information. Every Chairman, including myself, followed the Code and established procedures to obtain confidential federal tax information needed to advance a legitimate legislative purpose of our prestigious Committee.

Sincerely,



The Honorable Richard E. Neal  
Ranking Member

Mr. Schneider. And I also understand there was a bipartisan call earlier this month, September 6th, when staff asked the Treasury Inspector General for Tax Administration for guidance on this section. We have not yet received that guidance. And, again, not being a lawyer, I am trying to understand how it is permissible under the Code.

So let me go through a few more specific questions about the documents here.

It was the two whistleblowers who provided the documents we are considering, correct?

Mr. Clerget. That is correct.

Mr. Schneider. And, according to them, they were removed from the case on May 15th of this year?

Mr. Clerget. That is correct.

Mr. Schneider. Okay.

The documents were produced on eight dates, as you mentioned, beginning August 22nd through September 19th. Is that correct?

Mr. Clerget. Yeah -- September 20th, yes.

Mr. Schneider. Okay. Again, both dates being after their removal on May 15th?

Mr. Clerget. Yes.

Mr. Schneider. All right.

So, in the Affidavit 2, in describing Exhibit 205, the whistleblower says, "During my review of my computer backup folders found on the IRS server, I found some notes." So it was in files about the case on the IRS server after he was removed.

You know, I know IRS employees have access to case files under 6103(h)(1) if -- and I think this is important, and I will quote -- "official duties require inspection" of

return or return information.

How is review of these case files part of the whistleblower's official duties after May 15th?

Mr. Clerget. So 6103(f)(5) is the provision Congress has created to allow whistleblowers to bring information that they believe indicates misconduct or wrongdoing, maladministration, taxpayer abuse to Congress.

And that is the process by which these whistleblowers provided the information to the Committee.

Mr. Schneider. But if I have it right, in section (h), and I will read it:

Department of Treasury returns and return information shall, without written request, be open to inspection by or disclosure to officers and employees of the Department of Treasury whose official duties require such inspection of disclosure for tax administration purposes.

What were the official duties post May 15 for the whistleblowers to be looking at this information?

Mr. Clerget. I don't know the answer to that question. I think you would have to speak with them about that.

Mr. Schneider. But if they had no official duties, I guess it goes back to the question I was asking before.

Isn't it no different than someone who has no interest in this just looking for information on their neighbor or a spouse or someone they don't like?

Mr. Clerget. I think the information has been provided under 6103(f)(5).

As far as the other questions and hypotheticals you are asking, I think you would have to speak with them about that.

Mr. Schneider. Okay. But the whistleblower --

Chairman Smith. Your time has expired, Mr. Schneider.

Mr. Schneider. Okay.

Chairman Smith. Mr. Fitzpatrick is recognized.

Mr. Fitzpatrick. Thank you, Mr. Chairman.

Mr. Clerget, there is a lot of information in here. I just want to point out two things for clarification.

If you could turn to Exhibit 506, tab 67 -- I am sorry -- tab 67 of 506.

Mr. Clerget. I am there.

Mr. Fitzpatrick. Explain what this email exchange is. It is between three people: Justin Cole, James Lee, and James Robnett. Who are they?

Mr. Clerget. So sorry. Did you say tab 67?

Mr. Fitzpatrick. 67, Exhibit 506.

Mr. Clerget. 506. I think I have 506 as tab 66.

Mr. Fitzpatrick. Okay.

Mr. Clerget. So starting with the back, with these email chains, it is often easiest to review them in reverse order.

So this is the last email starting on page 4 of Exhibit 506 is an email from Justin Cole to James Lee and James Robnett.

Mr. Fitzpatrick. Who are they?

Mr. Clerget. Justin Cole is the director of the Office of Communication at IRS Criminal Investigation at the time.

James Lee was the chief of IRS CI.

And James Robnett, I believe, was the deputy chief based on this email.

Mr. Fitzpatrick. And what is the media leak they are referring to?

Mr. Clerget. I am sorry. Can you repeat the question?

Mr. Fitzpatrick. Mr. Cole, I mean, if I am reading this email right, is informing his superiors of a media leak?

Mr. Clerget. Yes. He is indicating that there -- that he got a call from a CNN producer with information about the case.

Mr. Fitzpatrick. And following it up, Mr. Cole says that the CNN producer has an email from Hunter, saying he expected -- I just want to make sure that this is -- I have this right in context -- expected the stuff to go away when his dad becomes President.

Mr. Clerget. Yes.

Mr. Fitzpatrick. One other question.

Tab 35, where our books line up here, Exhibit 300, tab 35.

Mr. Clerget. Yes.

Mr. Fitzpatrick. What is this document here?

Mr. Clerget. This is the investigator's compilation of messages between Hunter Biden and business associates, discussing business relationships.

Mr. Fitzpatrick. And the June 6, 2017 email, who is that between?

Mr. Clerget. So this message is, it starts as a group message with S.M., which stands for Sportsman which was the code name IRS used for Hunter Biden, then James Biden, Rob Walker, and James Gilliar.

Mr. Fitzpatrick. Okay. Who is it that wrote this? It is not clear from here.

Explain to me one thing Tony brings to my table that I so desperately need, that I am willing to sign over my family's brand, and pretty much the rest of my business life.

Mr. Clerget. So that is, if you follow, you will see at the beginning of that piece, it says S.M. says and then quote. So that is Hunter Biden says, and then a quote.

Mr. Fitzpatrick. I just want to clarify.

No further questions, Mr. Chairman.

Chairman Smith. Mr. Evans is recognized.

Mr. Evans. Mr. Chairman, I would like to yield to Mr. Schneider.

Chairman Smith. Mr. Schneider.

Mr. Schneider. Thank you. Thank you very much.

Let me go back to the questions I was asking before. The two whistleblowers, they are disclosing, or they purport to be disclosing, information under 6103(f)(5). Is that correct?

Mr. Clerget. That is correct.

Mr. Schneider. And, you know, the key reading again, it says "may disclose." Do you see those word in the language?

Mr. Clerget. Of 6103(f)(5)? Yes.

Mr. Schneider. Yeah. The beginning of the section, it says, again, quoting:

"Any person who otherwise had or had access to any return, return information under this section may disclose."

Mr. Clerget. Has or had information, yeah.

Mr. Schneider. Has or had.

Mr. Clerget. Access.

Mr. Schneider. So if I am reading it, again, not a lawyer, but if I am reading it, it says must have had access to the information under 6103, not randomly, but had access under 6103 for the disclosure section to apply. Again, this is only a disclosure section.

So, Mr. Clerget, under what section of 6103 did the whistleblowers access the documents that are now in front of us?

Mr. Clerget. I -- you would have to ask them. I don't know what specific section under which they had access.

Mr. Schneider. You can't point to me where they had the authority.

You know, I can imagine the authority applying when they were on the case. They were assigned to the case. They had authority. They were taken off the case on May 15. Again, at that point, they are no different than that nosy neighbor worried about the guy across the street with the fancy cars.

So I don't understand how it continues to apply to them to literally rummage through files, looking for evidence that they don't have authority, best I can gather, as taken off the case. Am I missing something here?

Mr. Clerget. The only thing I would say and without getting into the -- your characterization of it is that 6103(f)(5), the statute says "has" or "had" access. So that is present access or past access. So I think those words are at least significant to what you are discussing. But ultimately, I think it is them that you would have to ask.

Mr. Schneider. And I agree the "has" or "had" under that authority but post May 15, going back and looking through files seems, you know, at least shaky ground to me.

It doesn't seem as we have the indication that the documents the Committee is planning on releasing to the public today came to the Committee legally.

And so, my question is: Can you tell me, hypothetically speaking, if the Committee were to receive protected tax information that was clearly obtained illegally, outside the 6103, without authority, would the Committee have the authority to release that information to the public under 6103?

Mr. Clerget. I haven't done a full analysis of that exact question, so I don't think it would be appropriate for me to opine.

Mr. Schneider. I think it is an important question. Again, it is the nosy neighbor getting information on the guy across the street, shouldn't have had it. Does that mean that this Committee could release it?

My last question: Can you give us assurances, or what assurances can you give

us that these documents were obtained legally?

Mr. Clerget. Well, I can -- I mean, it is clear that these IRS whistleblowers had access to this information --

Mr. Schneider. Prior to May 15?

Mr. Clerget. -- and the statute 6103(f)(5) says that use the language has or had access, as we discussed.

And so, you know, my general understanding of this provision is that Congress created it so that it could receive information about wrongdoing at the agency.

Mr. Schneider. Again, they "has" or "had," but after May 15th they did not have, present or past tense.

With that, I yield back.

Chairman Smith. Mr. Estes.

Mr. Estes. Thank you, Mr. Chairman.

I would like to yield my time to Representative LaHood.

Chairman Smith. Mr. LaHood.

Mr. LaHood. Thank you.

Mr. Clerget, I want to just follow up on the line of questioning from Mr. Schneider regarding the legal parameters that we have been operating under here related to 6103.

To your knowledge, as we sit here today, there hasn't been any legal -- there hasn't been any lawsuits or litigation filed from the Democrats or anybody else on the legality of 6103 and what we are doing here today, correct?

Mr. Clerget. That's correct.

Mr. LaHood. And there is the ability to file an injunction in Federal court to stop proceedings from going forward based on legal precedent, correct?

Mr. Clerget. Correct.



Mr. LaHood. Has any of that been filed today?

Mr. Clerget. No, sir.

Mr. LaHood. Are you aware of any litigation whatsoever filed by either the Democrats here on Ways and Means or other committees here in the House to stop what we are doing here today?

Mr. Clerget. No, sir.

Mr. LaHood. Thank you.

I yield back, or I yield to Mr. Estes.

Mr. Neal. Will the gentleman yield?

Chairman Smith. Mr. Estes has the time right now.

Mr. Estes. I will yield to the ranking member.

Mr. Neal. Thank you. We are not trying to hide anything here or cover it up. We are anxious to get these documents out to the public, particularly based on what we are hearing this morning.

Mr. Estes. Reclaiming my time, I will yield to Representative LaHood.

Mr. LaHood. If I understood the almost 10 minutes that Mr. Schneider talked about, he was criticizing the legal authority that we are using here. But none of that has been elucidated in any court of law. There was plenty of legal options that the Democrats had to fight against this, and yet, we have none of that here today.

That is my only point. Thank you.

Mr. Schneider. Will the gentleman yield?

Mr. Estes. Sure. If you want to respond to that, I will yield to Mr. Schneider.

Mr. Schneider. And, Mr. Estes, I don't mean to put you in a difficult spot.

Just to clarify, I think the point I am trying to raise, just trying to understand is: Under what authority did the whistleblowers have to access this information? It is not a

question of our authority. It is the authority the whistleblowers were operating under, or were they violating.

I take very seriously, and we have talked about this in this Committee on multiple occasions, the sanctity of the privacy of individual tax information, whether it is yours, mine, or anyone else's.

And I have real concerns about people removed from a case in May, accessing data post-May under what authority, because the authority they claim may be used in that hypothetical nosy neighbor about the guy across the street.

Mr. Estes. Thank you.

Mr. Schneider. Yield back.

Mr. Estes. Reclaiming my time, I think the issue is, I mean, our role and responsibility as the Committee is to focus on how things work for the IRS, and how things work in terms of an investigation into taxes being paid.

Your nosy neighbor example -- was an example to talk about. But I mean, we are trying to focus on, there are, very legitimately, information around taxes that weren't paid, and income that wasn't reported, and we are trying to get to the root of why that didn't happen and what went on through that process.

So I would like to yield back to Mr. LaHood.

Mr. LaHood. Mr. Schneider, just in response, I would say everything you just described is contingent on a legal determination. And that legal determination, when we disagree, is done by an independent court which is the Federal judiciary. That clearly wasn't done here, and that was my point.

Thank you.

Mr. Estes. I will yield back, Mr. Chairman.

Chairman Smith. Are you sure?

Mr. Estes. Yes, sir.

Chairman Smith. Thank you.

Mr. Panetta is recognized.

Mr. Panetta. Thank you, Mr. Chairman.

Well, I guess that is also part of the reason why we have actually requested guidance from the Treasury Inspector General on the legality of releasing the documents today.

Sean, you know that, correct?

Mr. Clerget. Yes.

Mr. Panetta. Sean, thanks for being here. I appreciate your time.

And, Mr. Chairman, thanks for this opportunity.

Just to kind of go through some things quickly here, these documents in this binder that were provided to us today, they were provided, all the documents were provided to the Committee by Shapley and Ziegler, correct?

Mr. Clerget. That is correct.

Mr. Panetta. None of these documents were provided by anybody else from the IRS, correct?

Mr. Clerget. That is correct.

Mr. Panetta. The Committee has not done an official request to the IRS for the unredacted documents, correct?

Mr. Clerget. That is correct.

Mr. Panetta. Because you would need to have a legitimate legislative purpose to do that under (f)(1) of 6103, correct?

Mr. Clerget. Generally speaking, a legislative purpose would be part of it, yes.

Mr. Panetta. Exactly. And, instead, you are relying on (f)(5) of 6103 as

justification to release these redacted documents, correct?

Mr. Clerget. Well, (f)(5) is what allows the Committee to receive the documents.

Mr. Panetta. So you only want to release these documents that are heavily redacted and only supplied to the Committee by Shapley and Ziegler, correct?

Mr. Clerget. The Chairman has presented the documents to the Committee for consideration.

Mr. Panetta. And those are the only documents you want to have released, correct?

Mr. Clerget. At this time.

Mr. Panetta. You haven't seen whatever is underneath any of the redactions on any of the documents. Correct, Sean?

Mr. Clerget. Other than the redactions made by the Committee to PII that I discussed before, other than that, no.

Mr. Panetta. So because you haven't seen the unredacted documents, you really don't know the full context of most of these documents, correct?

Mr. Clerget. I think we have learned quite a -- quite a bit about the context of these documents. And I think the investigation continues, and there is a lot more we would like to learn, yes.

Mr. Panetta. Exactly. Because you don't know most of the context of most of these redacted documents, correct?

Mr. Clerget. As with any investigation, we don't know everything yet. We are trying to figure out what happened here.

Mr. Panetta. For example, Sean, reclaiming my time, for example, go to tab 24, Exhibit 203, please.

Mr. Clerget. 24. Yes.

Mr. Panetta. The entire top and the entire bottom of that page are redacted.

There is only five lines in the middle of it, correct?

Mr. Clerget. Correct.

Mr. Panetta. That are exposed, correct?

Mr. Clerget. That is correct.

Mr. Panetta. You haven't seen what is underneath the redacted parts of this document, correct?

Mr. Clerget. That is correct. It was provided --

Mr. Panetta. So you don't know what is underneath those redactions, correct?

Mr. Clerget. That is correct.

Mr. Panetta. It is listed as page 8. Is that correct?

Mr. Clerget. Yes.

Mr. Panetta. How many total pages were in this full document?

Mr. Clerget. I don't know.

Mr. Panetta. You don't know because you haven't seen the unredacted version, correct?

Mr. Clerget. That is correct.

Mr. Panetta. So you have just received this document from either Shapley or Ziegler, and the Committee wants it released to the public without knowing anything else about this document, correct?

Mr. Clerget. This one came from Ziegler, and the Chairman has presented it to the Committee.

Mr. Panetta. Tab 60, please, Sean, Exhibit 401.

Mr. Clerget. Yes.

Mr. Panetta. This is a 214-page interview, and in it, entire pages are redacted,

correct?

Mr. Clerget. That is correct.

Mr. Panetta. For example, pages 110 to 125, redacted, pages 134 to 137, redacted, pages 141 to 152, redacted, correct?

Mr. Clerget. That is correct.

Mr. Panetta. Again, you have not seen nor do you know what is in the unredacted pages of Exhibit 401, correct?

Mr. Clerget. That is correct.

Mr. Panetta. Besides Shapley and Ziegler, we don't have any way of confirming the authenticity of these documents, correct?

Mr. Clerget. I am not aware of anyone questioning the authenticity of these documents. They were presented to the Committee with signed affidavits.

Mr. Panetta. Once again, Sean, you haven't seen the entire case file, the unredacted case file, correct?

Mr. Clerget. The unredacted case file for the Hunter Biden case?

Mr. Panetta. For this file that Ziegler and Shapley have taken from, correct?

Mr. Clerget. No, I have not seen it.

Mr. Panetta. You have just seen these redacted documents, correct?

Mr. Clerget. That is correct.

Mr. Panetta. So you really don't have an understanding of the full context behind these heavily redacted pages besides what was given to you by Shapley and Ziegler, correct?

Mr. Clerget. Yes, along with their testimony and the testimony we have finally received from a few individuals, but yes.

Mr. Panetta. Besides that, have you had meetings or telephone calls with either

Shapley and Ziegler or their counsel outside the presence of minority staff?

Mr. Clerget. Yes. Obviously, to coordinate receipt of these documents, we have spoken to their counsel to receive the information.

Mr. Panetta. Has anyone disclosed other materials to the Committee that the majority staff has yet to share with us?

Mr. Clerget. Not that I am aware of.

Mr. Clerget. Did you or anyone of your staff discuss with Shapley or Ziegler what documents they should produce?

Mr. Clerget. No.

Mr. Panetta. Did you review the productions or offer feedback or advice to Shapley and Ziegler before they forwarded these unredacted -- these redacted documents?

Mr. Clerget. Can you repeat that?

Mr. Panetta. You bet.

Did you review the producing or offer any feedback or advice to Shapley or Ziegler before they gave these redacted documents to the Committee?

Mr. Clerget. Not beyond how to -- how we would receive the documents they wanted to give us to protect them under section 6130.

Mr. Panetta. Thank you.

I yield back.

Chairman Smith. Thank you.

I would, as Chairman, welcome the minority to join with us in working together in requesting additional documents that is necessary from this place, but at this point, we have not had any request. And the minority and majority has been part of all the testimony of all the depositions and all the interactions. So we would welcome that.

Mr. Smith is recognized.

Mr. Smith of Nebraska. Thank you, Mr. Chairman.

Certainly, thank you, Mr. Clerget.

I think some of this discussion is somewhat predictable. We have whistleblowers that the other side is trying to discredit, and I hope that we will be mindful of what these whistleblowers have offered, and I think their diligence in sharing the information in an appropriate way.

Now they -- the attacks go back to our first executive session in June. It is my understanding that the documents before us today actually commends whistleblowers' actions during the course of their investigation.

Mr. Clerget, what is in Exhibit 200, tab 21 and Exhibit 201, which is tab 22?

Mr. Clerget. Exhibit 200 is an email from Lesley Wolf to a number of individuals, including Mr. Ziegler and a number of others that appear to be working on the investigation.

Mr. Smith of Nebraska. And describing the work of the whistleblower?

Mr. Clerget. Yes. This is Ms. Wolf is taking a moment to thank them all for their hard work on the investigation.

Mr. Smith of Nebraska. And then tab 21, well, 21 and 22 -- excuse me -- 22, that would be more characterization of the exemplary work of the whistleblower Ziegler. Is that accurate?

Mr. Clerget. Yeah, yes, Exhibit 201, tab 22 is a back-and-forth email chain with David Weiss where he thanks both Mr. Ziegler and Mr. Shapley for taking the time to meet with him and present additional information. He says:

"I am always appreciative and mindful of the extraordinary effort of the team, and specifically, SA Ziegler have put into the case".



Mr. Smith of Nebraska. Thank you, Mr. Clerget.

Again, I want to reiterate that throughout this entire process these whistleblowers have proven to be credible, both in their resumes and in feedback from senior officials.

My original inquiry was: You know, what is the credibility here? And at every turn, there is significant credibility. There is also developing patterns of slow-walking things to outlast the statutes of limitations.

And I hope that as we sort through all of this, that we take it seriously, that we take our jobs and our responsibilities seriously of how we can get to the bottom of this so that something like this does not happen again. I am very concerned.

And I would hope that all of my colleagues would find so much of this evidence chilling, absolutely chilling. And we should make sure that it doesn't happen again.

Thank you.

Chairman Smith. Ms. Sanchez is recognized.

Ms. Sanchez. Before I begin, Mr. Chairman, I just want to point out the fact that Mr. Schneider started his questioning by saying he is not an attorney, but I am.

And as an attorney, it is incredibly important when dealing with serious matters like this, that you be specific. And earlier, I tried ask a colleague to be specific about which Biden he was referring to, because asking general questions about did Biden do this or Biden do that, I was confused.

And when you slap me down by not even allowing me to ask the question, that hardly is a fertile ground for bipartisanship.

And if you seem so intent on silencing my voice, I wonder: What is so threatening about asking somebody to be specific about which Biden they are referring to in their questions?

Mr. Clerget, I would like to chat a bit about one of the whistleblowers from which

this Committee received sworn testimony, Gary Shapley.

Mr. Clerget, it is clear that Mr. Shapley was a good investigator. And I don't think anybody doubts that. But that doesn't mean he was perfect. But it also seems from other witness testimony that the Committee has taken that he was a difficult employee, potentially one with an axe to grind.

For example, Mr. Batdorf testified that Gary has quote, "Gary had a tendency to go to levels like grade 7, 5-alarm fire on everything," and that "He has a mindset that if you don't agree with him, I mean, you are just incompetent."

Mr. Clerget, would you say that sounds like somebody who works collaboratively with others?

Mr. Clerget. My understanding of Mr. Shapley's work is that he has worked collaboratively with a number of investigators, attorneys, prosecutors, et cetera.

Ms. Sanchez. Your definition of collaboratively is a lot different than I think most people's would be.

Minority counsel went on to ask a follow-up question about Mr. Shapley's general behavior. When they asked Mr. Batdorf how many people he oversees, he answered about 1,000. That is a lot of people.

And they followed up with a question:

Of all the supervisory Special Agents under your purview, how many jump over their supervisor and their supervisor's supervisors and come to you directly with issues?

And his response, he said: Only one, Gary Shapley.

Mr. Clerget, do you work under a chain of command?

Mr. Clerget. Yes.

Ms. Sanchez. Okay. And do you think it would be frowned upon as a matter of course if you decided every single time to report directly to Chairman Smith before you

reported to your supervisor on an issue?

Mr. Clerget. I don't believe that is what Mr. Batdorf testified as to Mr. Shapley's conduct.

Ms. Sanchez. But that is the testimony we have from other witnesses, that he routinely jumped over his supervisor and his supervisor's supervisors.

Mr. Clerget. I don't --

Ms. Sanchez. And that is why we have a chain of command in any organization.

We have all worked with these kinds of personalities that think it is within their right to go straight to the top, and we know how difficult those kinds of people can be.

Additionally, we can see from the evidence submitted at these interviews that Mr. Shapley, in addition to being difficult to work with, had a political axe to grind.

In fact, when the witness was asked about whether Mr. Shapley's tendency [to] add quote, unquote "Biden-appointed" to the AUSA he was referring to, didn't Mr. Batdorf say it is unusual?

Mr. Clerget. I believe -- that is my recollection.

Ms. Sanchez. Yeah, it is. It is on page 54 of the transcript, just for your information.

Mr. Clerget. Thank you.

Ms. Sanchez. And did Mr. Batdorf say that Mr. Shapley told him that Mr. Shapley filed a whistleblower complaint on January 6, 2023?

Mr. Clerget. I believe so.

Ms. Sanchez. Yes. That is on page 64 of his transcript.

So he filed the whistleblower complaint on the anniversary of January 6, 2021, the insurrection, and he refers to the AUSA as Biden-appointed. That is very unusual.

The IRS is supposed to carry out its mission in an apolitical fashion, and here you

have an IRS employee labelling individuals based on the President who appointed them to that position.

It seems to me that it wasn't retaliation that had Gary Shapley removed from the case. It wasn't retaliation that caused the communication to break down between him and the DOJ. It was because he was an intemperate person with a political axe to grind who couldn't deal with the fact that not everyone saw things the way that he did. And I am sure that everyone on this dais has dealt with people just like that throughout their professional careers.

And it seems to me that Republicans are intent on trying to transform what appears to be a run-of-the-mill personnel matter into high crimes and misdemeanors.

It is a complete waste of taxpayer resources. And if I had a dollar for every witness that the Republican-led majority brings to the Whistleblower Committee, who has an axe to grind and some grievance, and therefore thinks that every Committee or, I mean, every Federal agency is corrupt, I would be a very wealthy woman.

With that, I yield back, Mr. Chairman.

Chairman Smith. Thank you.

Ms. Sanchez, I just want to point out, since you asked me a question directly, the Chair would not want to silence any members' voices on this Committee. And that is, in fact, why the gentleman from Illinois had the floor, and it was his time. And I did not want another member to silence his voice, because he said he would not yield.

And a lot of times, members in their 5 minutes, say things that other members don't understand. It just doesn't give us time to take their time away if that member doesn't does not yield.

Ms. Sanchez. Mr. Chairman, may I respond to that briefly?

Chairman Smith. Please.

Ms. Sanchez. Because the Chairman always has the prerogative to add that time onto that person's questions, and I think it would have been really helpful for all of us to just ask -- all I wanted to do was ask simply could you please specify which Biden you were talking about.

I don't think that is an unreasonable request, and you shot me down. And you had an opportunity to add time onto the gentleman from Illinois' questioning if I interfered with that time. But I think it was important to be specific.

But if that is too much to ask on a Committee that you at least allow people to ask a question, you know, then I apologize for, you know, wrecking your power and your control of the Committee.

And I yield back.

Chairman Smith. I appreciate your opinion.

Are there further technical questions?

Ms. Chu?

Ms. Chu. Well, the purpose of this executive session is to release documents to the public that supposedly shine a light, but these documents are deeply flawed and incomplete.

This is a piecemeal transfer only from Shapley and Ziegler that promotes their own testimony which has been directly contradicted by high-ranking IRS officials.

These are cherry-picked and heavily redacted documents. Let's take one example.

Republicans have been making a lot of hay over what was or was not said at an October 7 meeting by Assistant U.S. Attorney David Weiss as to the extent of his authority to bring charges in the Hunter Biden case. They are alleging that Weiss said he was not the deciding person on whether charges were filed.

Counsel, in the Committee's interview with Gary Shapley on page 178 of the transcript, majority counsel asked Mr. Shapley who was in attendance at that October 7 meeting and one of the names he listed was Darrell Waldon, correct?

Mr. Clerget. Based on my recollection, yes.

Ms. Chu. And then majority counsel stated:

“And so if someone wanted to just check with those folks, they could tell what they heard Weiss say at the same meeting that you were at.”

Fair to say?

Mr. Clerget. Yes.

Ms. Chu. And Mr. Shapley's response was: “Yep.”

Is that correct?

Mr. Clerget. That is correct.

Ms. Chu. And so, the Committee then asked Mr. Waldon to testify, correct?

Mr. Clerget. Yes.

Ms. Chu. And in the interview Mr. Waldon gave to the Committee, did Mr. Waldon confirm that Gary Shapley's testimony about the October 7 meeting was correct?

Mr. Clerget. I think the testimony -- Mr. Shapley's testimony -- was discussed in great detail in that interview.

So are you referring to any specific point or the whole meeting?

Ms. Chu. Well, I would say -- in fact, let's read what Mr. Waldon said. He said:

“I don't recall those exact words as I sit here today.”

Mr. Clerget. Yeah, he was unable to recall.

Ms. Chu. He was unable to recall. That's not exactly a ringing endorsement of Shapley's characterization of the meeting or of what Mr. Weiss said.

But those aren't the only individuals that Shapley flagged for the Committee. Shapley also told the Committee that Tom Sobocinski and Ryeshia Holley could confirm his testimony, correct?

Mr. Clerget. I am not sure if that is exactly what he said but something to that effect, yes.

Ms. Chu. Are you familiar with the testimony that those two individuals proffered to the House Judiciary Committee?

Mr. Clerget. Yes.

Ms. Chu. Well, in fact, Mr. Sobocinski was even more firm in his recollection than Mr. Waldon.

I quote, "He didn't say that. In my recollection, he would have said that -- if he said that, I would have remembered it."

Similarly, Ryeshia Holley testified, "I don't remember him saying that."

So while this Committee and other so-called investigative committees have now spent months trying to get press hits on this bombshell, or supposedly bombshell meeting, it seems that none of the people who Gary Shapley suggests would verify what was supposedly said at the meeting could actually do anything of the sort.

Now I don't know. I suppose it is possible that AUSA David Weiss could have a massive wipeout of everyone's memory like they did in the film "Men in Black," but I think it is more likely that the whistleblower that the Republicans are clinging to didn't understand what he was hearing at the meeting. He wrote something down, but maybe he was confused, mistaken, or misheard.

This seems like a flimsy foundation for an investigation, but I guess that is no surprise coming from my colleagues across the aisle who have predetermined that they will pursue an impeachment of the President, regardless of the facts.

I yield back.

Chairman Smith. Mr. Moore is recognized for technical questions.

Mr. Moore. Thank you, Chairman.

Mr. Clerget, I would like to talk about the connection between Hunter Biden, his associates, and the Burisma connection with Ukraine.

Could you please turn to tab 36, Exhibit 301, with the small writing?

Mr. Clerget. Yes.

Mr. Moore. Okay. So tab 36, Exhibit 301, again, we are going to talk about the connection, is there a connection to all of the mentioned individuals involved.

This tab, Exhibit 301, shows how Hunter Biden and his associates, business associates, worked together to further the family business.

Would you say that that is correct?

Mr. Clerget. Yeah, that is a fair.

Mr. Moore. April 15, 2014, Hunter Biden -- Hunter Biden's business associate, Devon Archer, meets with then-Vice President Joe Biden. Is that correct?

Mr. Clerget. Yes, I see that towards the top of the page, April 15, 2014.

Mr. Moore. April 16, 2014, Hunter Biden meets with Greg Schultz who is believed to be a senior advisor to the Vice President, Joe Biden. Is that correct?

Mr. Clerget. Yes.

Mr. Moore. Also on April 16, 2014, Hunter Biden meets Archer at the White House. Is that correct?

Mr. Clerget. Yes.

Mr. Moore. Okay. April 17, 2014, Archer forwards an email to Hunter Biden from Vadym Pozharskyi of Burisma that states, quote:

As to H.B., I do believe that we have to find a reasonable balance here.



Is that correct?

Mr. Clerget. Yes, I see that.

Mr. Moore. April 21, 2014, Vice President Joe Biden takes a trip to Ukraine. Is that correct?

Mr. Clerget. Yes.

Mr. Moore. And about a month later, and I don't believe this is in the documents, but about a month later, Hunter Biden joins Archer in being added to the Burisma board of directors. Is that correct?

Mr. Clerget. That is my understanding.

Mr. Moore. And as a result, Biden, Hunter Biden, and associates received millions of dollars from Burisma.

Is that your understanding?

Mr. Clerget. Yes.

Mr. Moore. Then in November 2014, we see a Vice President Biden delegation to Ukraine.

Democrats have questioned any connection between Hunter's business and Joe Biden. And if this was in front of any one of my constituents, anybody that could look at this objectively, they would say there is clearly connection there.

I am not going to ask you that question. I don't believe that is a technical question related to the evidence that you are putting forward today.

But to try to say there is no connection there is not going to be accepted, in my opinion, by the American people, and we can discuss more of that. These are clear connections. You look at the timeline. You look at work that was being done.

My time spent right now, I just want to take a very clear look and say within days meeting at the White House, Vice President trips to the areas, for Hunter Biden to be

placed on a board of which he has no expertise, there is clearly connection here. And I think that this evidence shows that there is connection between all of this.

Thank you. I yield back.

Chairman Smith. Mr. Thompson is recognized.

Mr. Thompson. Thank you.

Counsel, thank you for being here today.

I would like to look at Mr. Batdorf's sworn testimony on page 75. He states that he and Darrell Waldon, Mr. Shapley's direct supervisor, jointly made the decision to remove Mr. Shapley from the investigation. He says, and this is his direct quote:

"I mean, the decision to remove Mr. Shapley was made by Darrell and I in December."

Correct?

Mr. Clerget. Yes, at that time at the direction of David Weiss.

Mr. Thompson. And Mr. Batdorf said there was an email in February from Mr. Waldon, when he was leaving the supervisor position, memorializing the decision to remove Mr. Shapley in the case -- if the case was moving forward.

Did you or the chairman request a copy of that email?

Mr. Clerget. The email from Mr. Waldon to who? To Mr. Carter?

Mr. Thompson. Mr. Waldon submitted an email memorializing the decision to remove Shapley if the case was moving forward.

Mr. Clerget. Yeah, so we, as we discussed earlier, we haven't made a formal document request at this time.

Mr. Thompson. Of course not.

And then Mr. Batdorf says it was not communicated to Mr. Shapley that he was removed in December because there was "No more investigative steps to be taken on the

case at that time."

Is that correct?

Mr. Clerget. Yeah, based on the testimony, it is my understanding that nothing happened in the case.

Mr. Thompson. And Mr. Batdorf says he decided to remove Mr. Shapley and Mr. Ziegler from the case because and, again, I quote:

"If they remained on the case, the case would not move forward."

Is that correct?

Mr. Clerget. Yes, my understanding is that Mr. Weiss --

Mr. Thompson. Later, when asked about retaliation, Mr. Batdorf says, and again, I quote:

"In 22.5 years, I have never made a decision or restricted anyone out of spite, out of retaliation, or anything."

Is that correct?

Mr. Clerget. With Mr. Batdorf's testimony?

Mr. Thompson. Correct.

Mr. Clerget. Yeah, that is consistent with my recollection.

Mr. Thompson. It is on the transcript on page 112.

And your counsel, Mr. Castor, replied, and again I quote:

"No one is suggesting you were."

Is that correct?

Mr. Clerget. That is consistent with my recollection.

Mr. Thompson. And, counsel, you are an employee of this Committee and in this context an agent of Chairman Smith, correct?

Mr. Clerget. Yes.

Mr. Thompson. Okay. And Mr. Castor presumably is also an employee of the Committee and also serving as Chairman Smith's -- directly?

Mr. Clerget. Yes.

Mr. Thompson. So we have in the transcript a direct quote from an agent of the Chairman, exonerating the IRS employee who had the direct responsibility for reassigning Mr. Shapley.

Do you agree with Mr. Castor's conclusion, and do you agree with Mr. Castor that Mr. Batdorf did not retaliate against Mr. Shapley?

Chairman Smith. Mr. Clerget, I don't believe that is a technical question.

Mr. Thompson. Do you?

Mr. Clerget. I defer to the Chairman on --

Chairman Smith. Do you have a technical question?

Mr. Thompson. Mr. Clerget Do you think Mr. Weiss recommended Shapley and Ziegler be removed as retaliation because he was mad that they blew the whistle?

Mr. Clerget. I think that is quite possible. He had just reviewed emails that would have led him to understand that Mr. Shapley had documented many of the allegations that have now come before this Committee.

So that December, discussion was shortly after he reviewed those emails and would have become aware that Mr. Shapley might blow the whistle.

Mr. Thompson. In his response, he said, "I do not."

And, furthermore, Mr. Waldon recommended they be removed from the case due to "unsubstantiated allegations about motive, bias, and intent." Mr. Waldon also was unequivocal when he said that he and the U.S. Attorney felt there were no political influences or pressures in the case. That's on the transcript also.

So it sounds to me like, I had said earlier on the first hearing, that this wasn't even

a half-baked analysis of an investigation. I think it is still quarter-baked.

There is just so much that we are not getting from so many people who had direct contact and direct knowledge about this, and the information that we do have from some of these people suggests such.

I yield back.

Chairman Smith. Mr. Larson is recognized for technical questions.

Mr. Larson. Thank you, Mr. Chairman.

I briefly want to associate myself with the remarks of Mr. Neal, and sincerely say how remorseful this is that this Committee is going through this process.

Let me also say the profound respect for the attorneys on this Committee who have knowledge and understanding and capability, given all the redactions, given all the documents.

Let me also have empathy, Mr. Clerget, for what you are enduring.

But there is so much hypothesis and so little fact. And when you look at when this all happened, and as Mr. Neal started this thing off, we should be focused on keeping government open. But one could make the conjecture: Is this whole proceeding part of a deal to keep government open? Did the actions and the call on September 12 correspond with what is happening here in committees, in other committees?

I have no way of knowing. It is conjecture. And so we leave it up to our attorneys and people with knowledge to ask specific questions and get answers.

And with that, I yield my time to Mr. Doggett.

Mr. Doggett. Mr. Clerget, when these two whistleblowers came to give their depositions, they brought a total of 11 documents, as I understand, that the Committee voted on June 22 to release, along with their sworn testimony?

Mr. Clerget. Yes.

Mr. Doggett. And since that time, they have not given any other testimony to this Committee?

Mr. Clerget. No.

Mr. Doggett. But they have provided some affidavits that accompany these 700 pages of documents?

Mr. Clerget. Yes.

Mr. Doggett. And in those affidavits, they indicate that they went back and looked at IRS servers to find some of the documents, correct?

Mr. Clerget. I think there was a line discussed earlier about that. I am not sure.

Mr. Doggett. Reviewing their computer backup files, IRS employees aren't entitled to keep their own 6103 files. They are just like any other IRS employee in that regard.

Mr. Clerget. Is that a question? I am sorry.

Mr. Doggett. Well, I guess it is a question and it is a comment.

I mean, it appears to me that instead of the Committee going out and following the procedure as a guardian of 6103 and the privacy of taxpayer records, and making a request for complete records, as Mr. Panetta pointed out, you decided to let the whistleblowers be your 6103 agents and let them gather the data for you.

The only data you have is what they supplied, right?

Mr. Clerget. Yes, thus far.

Mr. Doggett. You did not ever ask the IRS for this data directly?

Mr. Clerget. Not yet.

Mr. Doggett. Well, you have had May, June, July, August. September is almost over. What is keeping you from doing it?

Mr. Clerget. We have made a number of requests to the administration --

Mr. Doggett. You have not made any --

Mr. Clerget. -- and it has taken --

Mr. Doggett. -- 6103 requests, have you?

Mr. Clerget. It has taken a great deal of time to even secure limited interviews with two IRS employees. So the administration has not been particularly forthcoming with information.

Mr. Doggett. Well, you don't know if they would be forthcoming on a 6103 request because you have never made one.

And as far as these two employees are concerned, everything that you have told us suggested that they have violated 6103, and are today in violation of 6103 in ever having produced documents that they had no right to after May 15 when they were removed from the investigation.

Mr. Clerget. I don't agree --

Mr. Doggett. No --

Mr. Clerget. -- with that characterization.

Mr. Doggett. No right, no more right than any other IRS employee to expose these documents.

You could have obtained them the right way. You chose to rely on biased individuals who had no right to these documents.

And as for the suggestion from Mr. LaHood that we could have gone and got an injunction, yes, we could have taken the Donald Trump approach of trying to delay and delay and delay access to documents. We chose not to do that.

I think these documents show on their face that there is no corruption or wrongdoing by Joe Biden, and you have been unable this morning to indicate any document in here that shows that, other than the discredited Mr. Bobulinski.

I yield back.

Chairman Smith. Are there further technical questions?

Seeing none, we will move to strike the last word.

Mr. Doggett, you are recognized to strike the last word.

Mr. Doggett. I would pass for now.

Chairman Smith. Are there additional members who would like to strike the last word?

Mr. Pascrell?

Mr. Pascrell. Thank you, Mr. Chairman.

I just wanted you to know that, Mr. Chairman, not that you would care or need to care, I am very angry.

You and I got and others here got to bed this morning about 1:30, quarter after 1:00, as we were doing our duty and responsibility, defeating amendments to an agricultural bill that everybody knew, when they walked into the place, everybody was mostly going to vote against.

This is a dance, and I didn't want to dance. I was tired last night. So I am a little angry this morning. I try to keep calm, cool, and collected.

You are not governing. You are a fake narrative to attack President Biden when you didn't even congratulate him, most of you, when he was elected and duly elected. You started off in a stinky way, and you finished off the last administration in a stinky way by not cooperating.

Who in God's name do you think you are kidding? I don't need the numbers. When our side talks about all the polls show that people -- I am tired of polls and you are, too.

Today our Committee is really like a kangaroo court. Republicans are silent while



the leader of their own party is facing 91 felony charges. Sure as heck you would want to distract people from thinking about that.

In June, figure out how many months ago that was, I asked a simple question, whether claims of political interference were corroborated. That is the question I asked on the record. It turned out that the so-called whistleblower's claim was entirely refuted by two of his supervisors.

Somebody ain't telling the truth. Turns out the whistleblowers did not have the story corroborated. If we had taken our time, followed the facts, we would not have released the shoddy, phony-baloney allegations.

I will remind my colleagues these allegations began under the failed stewardship of the last president, and his handpicked IRS boss. I am so disgusted with him I won't even mention his name.

But you all bring up now and then 6103. I brought it to this Committee's attention. Half the Committee never even heard of 6103 just several years ago, 2017, the tax, the 6103, before we even had a Code, before we even had a Code.

So we sit here, distracted while the sun is out, we should be out there. It hasn't been out in a long time. We need some sun in here.

We are hours away from a devastating shutdown, and we have offered no plan, nothing, zero. This is from a majority who brought us to the brink of catastrophic default, five shutdowns in 10 years, not a bad record. All shutdowns on your watch, and now your leader is telling you shut the place down. Don't govern. Sit home. Forget about the poor. Forget about those who can't help themselves or not in a position. Forget about the disabled. Come and listen to people talk about 6103 who never read the darn thing in first place.

And who violated 6103? Proof positive, it is time to stop these nonsensical

attacks, start governing, and if you pass the President in the hall, congratulate him on what happened in 2020. There is nothing wrong with that. He is there.

Chairman Smith. Mr. Pascrell --

Mr. Pascrell. He is legally there.

Chairman Smith. -- I have given you 40 seconds.

Mr. Pascrell. Don't interrupt me. I am not done.

Chairman Smith. Your time has expired by 45 seconds. So I gave you 45 seconds.

Mr. Pascrell. Thank you for giving me 45 seconds.

Chairman Smith. You are welcome.

Mr. LaHood is recognized.

Mr. LaHood. Thank you, Mr. Chairman.

What we have learned from these whistleblowers and the accompanying documents and information shows a pattern over the last 9 years. And what is that pattern? The pattern and the evidence shows that Hunter Biden and the family received close to \$19 million through multiple LLCs and companies. Taxes were not paid for multiple years. That is backed up by the sworn testimony of the whistleblowers. And by the way, these whistleblowers sought us out. We did not seek them out through the Ways and Means Committee.

But, today, 9 years later, Hunter Biden has never been charged with tax charges. Never been charged.

And, Mr. Pascrell, you brought up that the former President has 91 charges against him. So, within 18 months, four indictments against President Trump. And we can talk about the validity of those. But 9 years, and not one tax charge against Hunter Biden.

Now, what infuriates people is the unequal application of the law. Because you have a last name that is "Biden," you are not being charged.

And what all of this evidence has shown from the whistleblowers is, at every level, the investigation stopped -- by the IRS, by the AUSA. You had campaign finance charges, you had tax charges, you had corruption. No indictment, as we sit here today.

How do you explain that to people back home? Nine years, \$20 million, and not one indictment.

And so we have an obligation and a responsibility in our oversight role to look into that, from whistleblowers that came to us with valid information that is backed up by evidence. And that is what we have before us.

The second thing that I think is important to point out here: Chairman Smith, back in June, decided that these whistleblowers were going to come forth and we were going to release that information.

So what happened? That announcement was made, generally, on June 19th. June 20th, the next day, plea agreement happens. For the first time in 9 years, there is an abrupt plea agreement.

Mr. Pascrell. Will the gentleman yield?

Mr. LaHood. That plea agreement, which we have all seen, was put before the district judge in Delaware.

Now, I am a former Federal prosecutor. Ninety-eight percent of plea agreements are agreed by the Federal judge, independent judge. Judge Noreika in Delaware accepted that plea agreement, read it, and refused to accept it. Why? Never gets done in Federal court.

So you have an independent judge that is part of the judiciary that decided to reject this plea agreement. But look at the facts and evidence underlying that. She

looked at what we sent her, what the whistleblower said under oath, all of the other factual information and the collateral information that went to that judge.

Mr. Pascrell. Will the gentleman yield?

Mr. LaHood. She looked at it in an independent way, and she absolutely rejected it. And she should have. Because if you look under the Federal statute on how plea agreements can be rejected: based on compelling, new, and relevant evidence. And it fell apart.

And so, again, as we sit here today, there have been no charges. And this is, by the way, extremely rare. It never happens. And I hear nothing on the other side on that factual statement that I just made to you, on refuting that.

So, again, I go back to our statutory obligation. Part of being this oversight committee and our role here is just that and getting those facts and evidence out there.

But, again, I go back to: The unequal application of the law is fully evident with all of the facts in evidence that we have seen in this case.

I yield back.

Chairman Smith. Ms. Sanchez is recognized to strike the last word.

Ms. Sanchez. Thank you.

You know, it is astonishing to me that Republicans are determined to pursue an impeachment of President Biden when there is no evidence of wrongdoing on his part. But Republicans have never let facts get in the way of their schemes. It is full-steam ahead, and facts and evidence be damned.

Just because extreme MAGA Republicans want Joe Biden to be guilty doesn't mean that he is. And try as they might, for months Republicans have dangled assurances that they have mountains of evidence as proof that there was wrongdoing.

You know, I also serve on the Weaponization Committee, and let me tell you what

a circus that has been. The Republican Chairman Jordan has had witnesses testify and allowed them to make all kinds of wild accusations without a shred of evidence to back them up. And not only does he allow them to come in and just allege these crazy schemes, but he hasn't even allowed Democrats to question these witnesses to test their veracity or their potential biases.

And one thing that is a reoccurring theme is that, often, these are disgruntled employees who are angry because they didn't get the promotion that they thought that they deserved. Therefore, they have an axe to grind and a grievance, so they think all Federal agencies are corrupt.

I want to bring everybody's attention to this binder, which is substantial and hefty. There are text messages in there from Hunter Biden, but, so far as I can see, there is not one text message in here from Joe Biden.

And Joe Biden is not Hunter Biden. I know that is probably shocking to my colleagues, but they are not the same person. And Joe Biden is not responsible for the actions of Hunter Biden any more than any one of us on this dais are responsible for actions that our children take.

There are no text messages from Joe Biden, there are no emails from Joe Biden, there are no phone recordings from Joe Biden in here. There are no WhatsApp messages from Joe Biden in here. It is all B.S. and speculation.

So, as far as I can see, this whole dog-and-pony show only serves the following purposes:

The first would be to take attention away from the fact that my Republican colleagues are incompetent at actually governing and are marching us down the path to yet again another government shutdown, which can be devastating to our economy and which will hurt American families across the United States.

The second surmise is that it is some kind of petty payback for four-time-indicted ex-President Trump having been impeached twice during his term.

And, number three, and perhaps the most disgusting and sad of all, is that it is being used as nothing more than red meat thrown to the extreme MAGA Republican base in order to raise political dollars for reelection for my Republican colleagues.

But, you know, don't just take my wild allegations at face value, because I have receipts. I have proof to back that up. And I would ask the Chairman for unanimous consent to enter into the record this solicitation.

"Stand with James Comer. Democrats and the media are after him for leading the fight to hold the Biden crime family accountable. Show your support. Chip in now."

And I have a second solicitation, which I would ask unanimous consent to enter into the record, by none other than the Chairman of this Committee.

"I am leading the impeachment inquiry into Joe Biden. This is Jason Smith, and we desperately need you now more than ever. Rush a donation now. I am proud to be a leader in the impeachment inquiry of Joe Biden, and I promise to make you proud. But I will be frank, we need your support."

Mr. Chairman, may I enter those into the record?

Chairman Smith. Without objection.

Ms. Sanchez. Thank you.

[The information follows:]

\*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

## **Stand with James Comer**

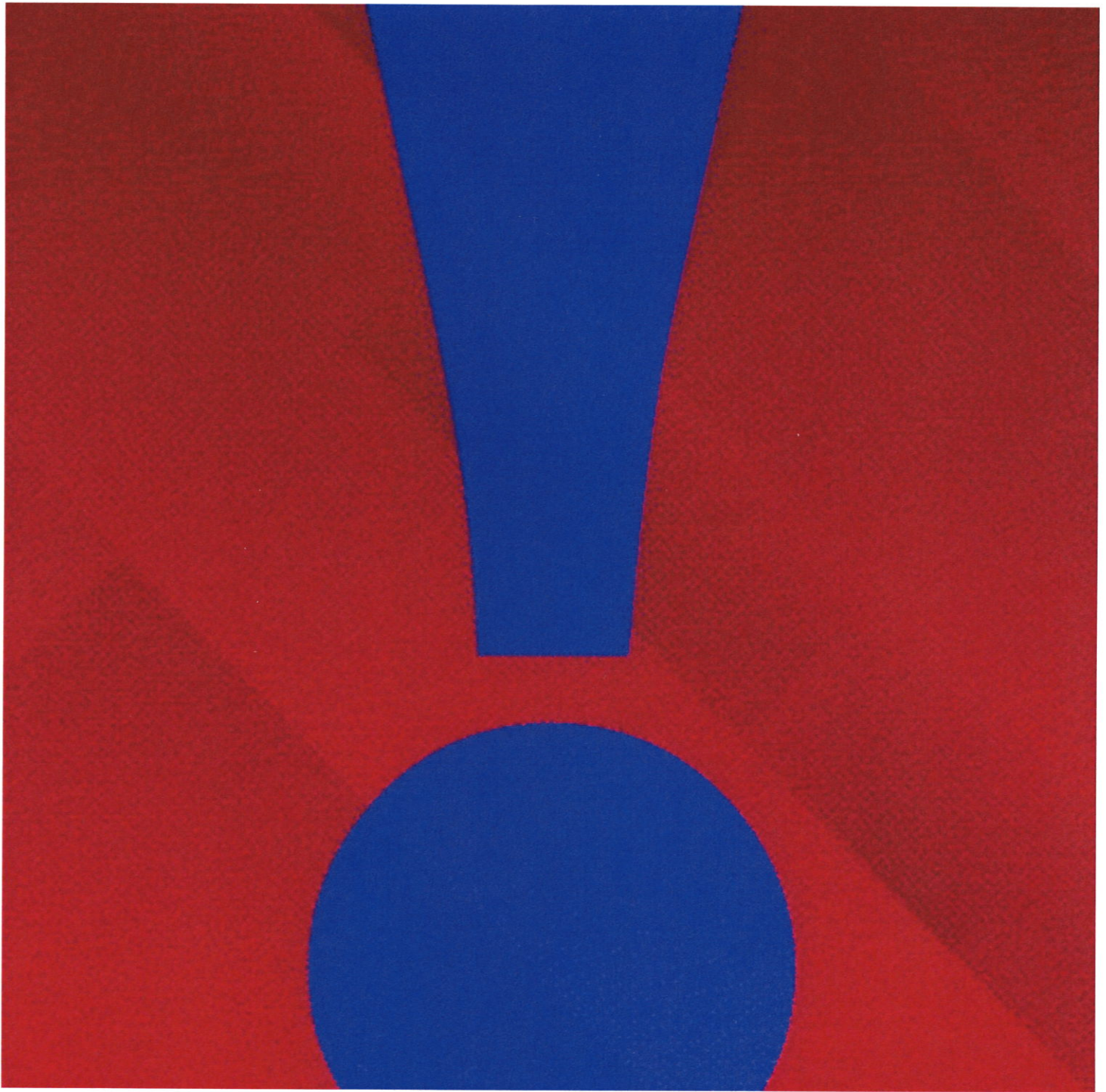
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Ms. Sanchez. I think that that says enough about what this inquiry is really about.

And I yield back the balance of my time.

Chairman Smith. Mr. Ferguson is recognized to strike the last word.

Mr. Ferguson. Mr. Chairman, before my time starts, I would like unanimous consent to enter into the record an email, fundraising email, out of the exact same vein that my colleague from California just put forth, but this one is from November the 14th of 2019. And our good friend from New Jersey, Mr. Pascrell, in this praises the Trump tax return decisions. So, pot calling the kettle black.

Chairman Smith. Without objection.

Mr. Ferguson. Thank you.

[The information follows:]

\*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

## Bill Pascrell in the News

★ [politicalemails.org/messages/59637](http://politicalemails.org/messages/59637)

Bill Pascrell

From Bill Pascrell, Jr. <[teampascrell@pascrellforcongress.com](mailto:teampascrell@pascrellforcongress.com)>

Subject Bill Pascrell in the News

Date November 14, 2019 9:40 PM

# CONGRESSMAN BILL PASCRELL



Good evening -- we wanted to reach out with a quick update of **Bill Pascrell in the News**. News today comes at you 24/7 so it's impossible to keep up. We just wanted to make sure you saw some of the important things Bill has been doing to serve the families of Bergen, Passaic, and Hudson Counties.

### Pascrell praises Trump tax returns decision

"Trump and his myriad enablers in the administration have moved heaven and earth to violate the law and keep Trump's taxes hidden from sunlight. It's time for full transparency of Trump's corruption."

CNBC, 11/11

### Pascrell honors 9/11 hero

"When he could have escaped, Rick went back into the smoldering buildings to see if anyone else in his firm remained... He quite literally sacrificed his life to save others."

Star Ledger, 11/8

### Pascrell assails NJ mayor's anti-gay bigotry

"There is no place for anti-gay bigotry in our communities or within our political institutions," Pascrell said.

Hasbrouck Heights Patch, 11/11

### Pascrell, AOC team up to expand banking options

"Our underbanked, underserved communities deserve nothing less than our best efforts to make affordable financial services accessible to all Americans," Mr. Pascrell and Ms. Ocasio-Cortez stated in their letter.

The Chief Leader, 11/8

Please check out these articles (and share them on [Facebook](#) and [Twitter](#)) to learn more about the work Bill is doing for you, and thank you truly for all your support.

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Mr. Ferguson. All right. So let's talk about how we got to where we are at this very moment, all right?

We are here because whistleblowers, who were then -- before they were called "whistleblowers," they were investigators with the IRS -- were looking into something that was very fishy. And they came across an individual who, slightly after the time of having an affair with his dead brother's wife and was accused of using narcotics, apparently his name came up on OnlyFans.com pornographic site, and they were making money off of this. Yes, this is one Hunter Biden.

And so, as they started to investigate this, they started going down certain roads, and then they were blocked by their supervisors. And because of the very rules that we, Congress, put forth about whistleblowers and bringing us information, they brought this information to the Committee. We didn't go fishing for it.

They were investigating a pornographic website and found this weird trail back to Hunter Biden, and then led to all of these allegations that, "Hey, wait a minute, we want to go investigate this," and, lo and behold, we can't go investigate this. It set up just this weird string of events.

But it is here, and we -- talking about legislative purpose -- we need to understand, is the Presidential audit process working? Not only do we need to be looking at the audit as a Committee, we need to be looking at the audit files, we need to be looking -- we should be asking questions. Should this expand to other family members?

I would say this: There are a lot of unanswered questions, there is a lot of information that we all want. You all have said you all want it. We want it.

Mr. Chairman, I suggest that we put forth a bipartisan letter, with all members of this Committee, to both President Biden, his family members, to be completely

transparent with information regarding the shell corporations and the bank accounts across their entire network. Let's lead a letter to the IRS requesting immediate release of all this information to the Committee so that we don't have to have it piecemeal.

And the question I would ask is, in the vein of transparency, would my colleagues on the other side of the aisle be willing to sign on to that letter to force this issue to come forward very, very quickly?

Mr. Neal. Would the gentleman yield?

Mr. Ferguson. Yes, sir.

Mr. Neal. Thank you, Doctor.

So the individuals, with the exception of the President, that you have noted, they are private citizens.

Joe Biden has released his tax forms a number of times during the course of his career --

Mr. Doggett. Unlike Trump.

Mr. Neal. -- unlike the former President did.

So I see no reason for us to be requesting the tax forms of private citizens if they are, in fact, under the jurisdiction of the Justice Department right now.

Mr. Ferguson. And to my colleague from Massachusetts, I respect that opinion, but in the interest of trying to get to the bottom of all of this, if nobody has done anything wrong, shouldn't we pursue that?

And, clearly, with regard to the Presidential audit process, we need to go further down and probably do this as Members of Congress as well, not just into our own stuff but those of our family members. It appears that there is more to this story, and we need to get that information.

So, clearly, Americans deserve to know what is going on inside their government.

We, as a Committee, deserve to get the answers. And we should be able to look at all of that information and determine whether or not this audit process is working according to the rules that we on this Committee and Members of Congress set up.

So, again, not to overemphasize this, but why are we here doing this right now? It is not because Republicans went on a fishing expedition. It is because Hunter Biden's moral character -- and, again, not judging him. And my friend Ms. Sanchez is right; you should never be held accountable for the actions of your adult child. Thank God my parents weren't held accountable for my actions.

But the point is, it led us to this point. The young man had a problem with sex and drugs and pornographic websites, and it led him straight -- and it created a problem that the IRS had to look at.

There is a line in an old song from Kenny Chesney: "It's always your favorite sins that do you in."

With that, Mr. Chairman, I will yield back.

Chairman Smith. Thank you.

Mr. Panetta is recognized to strike the last word.

Mr. Panetta. Thank you, Mr. Chairman.

Although I understand why the type of salacious information would come up in regards to Hunter Biden, I do believe, though, that today's effort is just not the best use of this Committee's talent and this Committee's time.

Today's hearing appears to be an attempt to use unverified, incomplete, and redacted documents to support a stalled impeachment inquiry.

These documents at the foundation of today's hearing have been provided by two employees who claim retaliation, yet they have been contradicted by witnesses that the majority staff interviewed, who have been unequivocal that there was no retaliation



against the two employees and absolutely no political motivation.

I believe that that is why you have not even verified the authenticity of these documents, because you believe that there is no legislative purpose that you could use to justify the release of the full, unredacted copies of the documents in question.

More critically, I am worried that we are abusing the power of this Committee, especially by relying on just two employees to present redacted tax information rather than going through the formal request process in compliance with Section 6103(f)(1) to get the full, unredacted documents today.

It is clear that the purpose of releasing the redacted documents is not to inform the legislative process but to create a false narrative about President Joe Biden based on redacted documents, not any evidence; based on assumptions, not any facts.

This Committee should not be wasting our time with this inquiry with the government only days away from a shutdown. This hearing is a distraction from us doing our job of governing. And, to be frank, this hearing is beneath many -- many -- of the members on this Committee, because the Ways and Means Committee is better than this.

I yield back.

Chairman Smith. Ms. Van Duyne is recognized to strike the last word.

Ms. Van Duyne. Thank you, Chairman.

We continue to hear from our friends on the left side of the aisle that this is a private citizen and that, you know, we should not treat this as anything other than a private citizen -- except for the fact that, because he was the President's son, he received preferential treatment.

If he was a private citizen, he probably already would have been in jail by now. These charges would already have been filed against him. They would not have allowed

charges to just simply drop off because of lack of time. They would have actually gone in and interviewed people. But they didn't because of campaign concerns about who his dad was. He was not treated as a private citizen.

In addition, we continue to hear that there is no evidence whatsoever connecting the President with any of these groups or any of this action, except for the fact that we have learned from these documents -- in addition to what we heard about Burisma, we also learned from these documents that Joe Biden's willingness to engage with Hunter Biden's business associates has been over time and it has been multiple times.

Public reporting shows that Joe Biden hosted Hunter and two business contacts -- billionaire Miguel Aleman and his father -- at the White House in February 2014. There is even a photo of the group receiving a behind-the-scenes tour of the Brady Briefing Room, just around the corner from the Oval Office. Hunter wrote to the White House photographer asking, "Do you have pictures from the lunch I had in dad's office with Miguel Aleman Sr. and Jr. and Jeff Cooper? If so, let me know and I can send someone over to pick them up." Jeff Cooper followed up with Hunter, "Any luck on getting those other pics from the White House Aleman visit or getting a few signed for Miguel and his dad?"

Just 3 months after the White House tour, Hunter sent an email to another business partner, Devon Archer, asking, "We need to get to Mexico City and cement the deal with Miguel. To that end, you need to reach out to him and get him an ongoing report on RR investment." That exchange is in the documents before us today.

In November 2015, Joe Biden hosted at the Vice President's residence Hunter, Miguel Jr., Miguel Sr., Jeff Cooper, and Mexican billionaire Carlos Slim.

Finally, public records show we learned that Joe used Air Force Two to shuttle Hunter and Jeff Cooper to Mexico City in 2016.

The idea that Joe Biden had no connection to his son's business dealings is demonstrably false.

My friends continue to say on the other side of the aisle that these documents don't contain any damning evidence. Then release them, and let the public judge for themselves.

I yield.

Chairman Smith. Mr. Blumenauer is recognized.

Mr. Blumenauer. Thank you, Mr. Chairman.

I identify with the line of inquiry from my friend Mr. Doggett, in terms of being able to move --

Mr. Doggett. Microphone.

Mr. Blumenauer. -- being able to --

Mr. Doggett. Especially if you are going to mention my name.

Mr. Blumenauer. I find this physically painful, the notion that we are dealing with a couple of disgruntled IRS employees whose indictment of -- in terms of what we are dealing with here has been discredited by their superiors; that we haven't really, as a Committee, gone down this path in a thoughtful and systematic way. It is trying to somehow throw discredit on the Vice President.

By all means, indict and impeach Hunter Biden. But this, at a time when we are facing a government shutdown, when we have massive documents here that don't show direct causation -- there isn't anything that really ties the President to these allegations. We are looking at innuendo. It isn't very hard, putting this degree of resource to raise questions.

I identify with my friend from Utah saying, the public might be concerned. Well, the public would be concerned about what happened with the Trump family and the deal

that they made in terms of financing properties with the Saudis immediately after leaving office.

There are all sorts of areas here that would raise questions in the public. That is not the standard by which our Committee should be operating, not things that we don't like, things that we think look suspicious, but meet the test of the process going forward. I don't think this meets that test.

I think this standard opens up a whole host of rabbit holes that we can go down that aren't particularly productive and not respectful, and at a time when we are facing serious problems with a government shutdown that will have serious consequences and perhaps stall the fragile economic recovery we have and raise blood pressure and concern but not solve problems.

This is not a productive way to be operating. And I am embarrassed that we are taking Committee time to do this.

Chairman Smith. Mr. Wenstrup is recognized to strike the last word.

Mr. Wenstrup. Thank you, Mr. Chairman.

I think everyone on this Committee is capable of looking at a situation and truly, in their mind, deciding if something is right or if something is wrong. And if you aren't able to do that in an unbiased way, putting your politics aside, being able to look at something without looking at the name of the person that is involved, then you shouldn't be on this Committee. You probably shouldn't even be in Congress, when it comes to right versus wrong.

But there is a troubling example of unfairness here. It seems the politically connected play by a different set of rules. That was the concern of the whistleblowers.

2014, two felonies. 2015, misdemeanor. IRS investigators found that Hunter Biden underpaid his taxes by at least \$300,000. There is a process when they

find things like that.

Nine years later, no indictment. And for some reason, prosecutors along the way decide to give him a free pass. And the IRS, apparently they said, well, let's turn it over to DOJ. Nothing was done. They allowed the statute of limitations to expire on a criminal case.

You know, I don't understand why people would want thousands of new IRS agents if the IRS agents aren't permitted to do their jobs. The idea of getting more IRS agents was to make sure that people aren't committing fraud or committing felonies or even misdemeanors and that people pay their fair share of their taxes.

Yet, somehow, in this case, it is not important. Put it aside. Let the statutes run out.

You cannot look at that and feel good about what is taking place and what has taken place. I guarantee you, if the last name was different and the last name was "Trump," you would be all over this in every way, screaming all day long.

But by the time they finally made the decision, IRS was blocked from pursuing a civil case against Hunter Biden. So there is no recourse for the government to pursue that amount. That is a shame.

If this were an ordinary American, do you think the IRS would have given a free pass? No. They wouldn't walk away from \$300,000, and neither would you. If the IRS thought a small-business owner owed an extra \$30,000, \$3,000, or \$300, would the IRS say, "That is okay. Don't worry about it. You committed a felony, but let's just make it a misdemeanor and call it a day"? Sorry. It shouldn't work like that, not in America, not with blind scales of justice. And that is not what has been taking place, according to everything the whistleblowers came forward with.

By the way, one admitted that he was a Democrat his whole life. So it is not

about politics for this person. It is about right versus wrong and people who have done their job and done it well for years.

So apparently the wealthy and well-connected play by a different set of rules. And we do need to develop legislation to put a stop to it. This is a clear legislative process.

I make this case across all of our agencies today compared to the military. In the military, unethical is unlawful, and you go to jail. In our agencies, you violate the rules, nothing happens to you. We have seen it with the FBI. IG report verifies that. I think we are going to see it here. And nothing happens. And, in this case, nothing happens to the person that clearly owed the taxes, committed the felonies.

Again, what is the purpose of more IRS agents if the people above them don't permit them to do their jobs?

With that, I yield back.

Chairman Smith. Mr. Doggett is recognized to strike the last word.

Mr. Doggett. Mr. Chairman, when we met on June the 22nd, I introduced a letter from Mr. Daniel Weiss, the Donald Trump appointee as U.S. attorney, dated June the 7th.

I want to ask your consent to reintroduce that letter, along with his subsequent letters of June 30th and July 10th, indicating that he was wholly responsible and had authority in this investigation.

Chairman Smith. Without objection.

[The information follows:]

\*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*



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June 7, 2023

The Honorable Jim Jordan  
Chairman  
Committee on the Judiciary  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Chairman Jordan:

Your May 25<sup>th</sup> letter to Attorney General Garland was forwarded to me, with a request that I respond on behalf of the Department.

While your letter does not specify by name the ongoing investigation that is the subject of the Committee's oversight, its content suggests your inquiry is related to an investigation in my District. If my assumption is correct, I want to make clear that, as the Attorney General has stated, I have been granted ultimate authority over this matter, including responsibility for deciding where, when, and whether to file charges and for making decisions necessary to preserve the integrity of the prosecution, consistent with federal law, the Principles of Federal Prosecution, and Departmental regulations.

Your letter references recently-announced staffing determinations in the matter and the Committee's concern that those decisions intersect with whistleblower protections. I agree wholeheartedly that whistleblowers play an integral role in promoting both civil servant accountability and good government practices. Federal law protects whistleblowers from retaliation, as well it should.

The information sought by the Committee concerns an open matter about which the Department is not at liberty to respond. As then-Deputy Attorney General Rod Rosenstein wrote in 2018 in response to a request for information from the Honorable Charles Grassley, Chairman of the Senate Committee on the Judiciary:

Congressional inquiries during the pendency of a matter pose an inherent threat to the integrity of the Department's law enforcement and litigation functions. Such inquiries inescapably create the risk that the public and the courts will perceive undue political and Congressional influence over law enforcement and litigation decisions. Such inquiries also often seek



records and other information that our responsibilities for these matters preclude us from disclosing.<sup>1</sup>

Accordingly, and consistent with longstanding Department of Justice policy and practice,<sup>2</sup> I must respectfully decline the Committee's request for documents and information at this time to protect confidential law enforcement information from disclosure.

This response fully recognizes that the Committee's oversight efforts are an important part of its legislative process. As then-Assistant Attorney General Robert Raben noted in 2000:

Congressional committees need to gather information about how statutes are applied and funds are spent so that they can assess whether additional legislation is necessary either to rectify practical problems in current law or to address problems not covered by current law. By helping Congress be better informed when it makes legislative decisions, oversight promotes the accountability of government.<sup>3</sup>

Across administrations, therefore, the Department's policy has been to:

... comply with Congressional requests for information to the fullest extent consistent with the constitutional and statutory obligations of the Executive Branch[.] [T]he Department's goal in all cases is to satisfy legitimate legislative interests while protecting Executive Branch confidentiality interests.<sup>4</sup>

The confidentiality interests implicated by the Committee's instant request include legally protected materials (including grand jury information, protected by Rule 6(e) of the Federal Rules of Criminal Procedure, and taxpayer information, protected by 26 U.S.C. Section 6103); information the disclosure of which might compromise open criminal investigations or prosecutions or constitute an unnecessary invasion of privacy;

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<sup>1</sup> Letter from Deputy Attorney General Rod Rosenstein to Hon. Charles Grassley, Chairman, Committee on the Judiciary, U.S. Senate, at 10 (June 27, 2018) *quoting* Robert Raben, Assistant Attorney General, "DOJ View Letters on Subcommittee on Rules and Organization of the House testimony on 'Cooperation, Comity, and Confrontation: Congressional Oversight of the Executive Branch,'" July 15, 1999, *available at* <https://www.justice.gov/media/962176/dl?inline> (last accessed June 2, 2023).

<sup>2</sup> *See* Congressional Requests for Information from Inspectors General Concerning Open Criminal Investigations, Memorandum Opinion for the Chairman Investigations/Law Enforcement Committee President's Council on Integrity and Efficiency, March 24, 1989, *available at* <https://www.justice.gov/file/24181/download> (last accessed June 2, 2023).

<sup>3</sup> Letter from Assistant Attorney General Robert Raben to The Honorable John Linder, Chairman, Subcommittee on Rules and Organization of the House, Committee on Rules, House of Representatives, at 2 (January 27, 2000), *available at* <https://www.justice.gov/sites/default/files/oip/legacy/2014/07/23/linder.pdf> (last accessed June 2, 2023).

<sup>4</sup> *Id.* at 2.

and, just as importantly here, pre-decisional deliberative communications. By way of illustration, the Department has a broad confidentiality interest in protecting materials that reflect its internal deliberative process, at least to ensure that Departmental litigation decisions are products of independent legal and factual assessments, free from external political influences. Here, any documents or information responsive to the Committee's request would fall within deliberative communications regarding an ongoing criminal investigation.


As then-Deputy Attorney General Rosenstein recognized:

We cannot fulfill requests that would compromise the independence and integrity of investigations ... or create the appearance of political interference. We need to follow the rules. It is important for the Department of Justice to follow established policies and procedures, especially when the stakes are high.<sup>5</sup>

I share then-Deputy Attorney General Rosenstein's "commitment to the Department's longstanding traditions, [which] carries with it an obligation to ensure that we keep pending law enforcement matters separate from the sphere of politics and that there be no perception that our law enforcement decisions are influenced by partisan politics or pressure from legislators."<sup>6</sup> Here, that requires that I respectfully protect from disclosure the confidential law enforcement information the Committee seeks. My ongoing work would be "seriously prejudiced by the revelation of the direction of [the matter], information about evidence obtained, and assessments of the strengths and weaknesses of various aspects of [the matter]."<sup>7</sup>

In February 2021, I was asked to remain as United States Attorney for the District of Delaware to continue my oversight of the matter. Since that time, I have fulfilled my responsibilities, consistent with Department practices and procedures, and will continue to do so. Throughout my tenure as U.S. Attorney my decisions have been made-- and with respect to the matter must be made-- without reference to political considerations.

Sincerely,

  
David C. Weiss  
United States Attorney

cc: The Honorable Jerrold L. Nadler, Ranking Member

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<sup>5</sup> Letter from Deputy Attorney General Rod Rosenstein to Hon. Charles Grassley, Chairman, Committee on the Judiciary, U.S. Senate, at 6, available at <https://www.justice.gov/media/962176/dl?inline> (last accessed June 2, 2023).

<sup>6</sup> *Id.* at 7.

<sup>7</sup> *Id.* at 4.



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June 30, 2023

The Honorable Jim Jordan  
Chairman  
Committee on the Judiciary  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Chairman Jordan:

This is in response to your June 22, 2023, letter,<sup>1</sup> wherein you renew your request for materials related to whistleblower allegations made in connection with the investigation into Robert H. Biden, and request additional information related to my response<sup>2</sup> to your initial letter on this topic.

At the outset, I would like to reaffirm the contents of the June 7 letter drafted by my office and reiterate that I am not at liberty to provide the materials you seek. The whistleblowers' allegations relate to a criminal investigation that is now being prosecuted in the United States District Court for the District of Delaware. At this juncture, I am required to protect confidential law enforcement information and deliberative communications related to the case. Thus, I will not provide specific information related to the Hunter Biden investigation at this time. But I will provide some general insight on two issues.

First, the Department of Justice did not retaliate against "an Internal Revenue Service ("IRS") Criminal Supervisory Special Agent and whistleblower, as well as his entire investigative team... for making protected disclosures to Congress."<sup>3</sup>

Second, in my June 7 letter I stated, "I have been granted ultimate authority over this matter, including responsibility for deciding where, when and whether to file charges and for making decisions necessary to preserve the integrity of the prosecution, consistent with federal law, the Principles of Federal Prosecution, and Departmental regulations."<sup>4</sup> I stand by what I wrote and wish to expand on what this means.

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<sup>1</sup> Letter from Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary, to Hon. David C. Weiss, U.S. Att'y, District of Delaware (June 22, 2023) (hereinafter, "the June 22 letter").

<sup>2</sup> Letter from Hon. David C. Weiss, U.S. Att'y, District of Delaware to Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary (June 7, 2023) (hereinafter, "the June 7 letter").

<sup>3</sup> June 22 letter at 1.

<sup>4</sup> Id. at 1.

As the U.S. Attorney for the District of Delaware, my charging authority is geographically limited to my home district. If venue for a case lies elsewhere, common Departmental practice is to contact the United States Attorney's Office for the district in question and determine whether it wants to partner on the case. If not, I may request Special Attorney status from the Attorney General pursuant to 28 U.S.C. § 515. Here, I have been assured that, if necessary after the above process, I would be granted § 515 Authority in the District of Columbia, the Central District of California, or any other district where charges could be brought in this matter.

At the appropriate time, I welcome the opportunity to discuss these topics with the Committee in more detail, and answer questions related to the whistleblowers' allegations consistent with the law and Department policy. It is my understanding that the Office of Legislative Affairs will work with the Committee to discuss appropriate timeline and scope.

Sincerely,



David C. Weiss

United States Attorney

cc: The Honorable Jerrold L. Nadler, Ranking Member



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July 10, 2023

The Honorable Lindsey O. Graham  
Ranking Member  
Senate Committee on the Judiciary  
United States Senate  
Washington, D.C. 20510

Dear Senator Graham:

This is in response to your June 28, 2023, letter.<sup>1</sup>

As I recently explained to the Honorable Jim Jordan,<sup>2</sup> since the whistleblowers' allegations relate to a criminal investigation that is currently being prosecuted in the United States District Court for the District of Delaware, I have a duty to protect confidential law enforcement information and deliberative communications related to the case. As I likewise indicated, I welcome the opportunity to respond to these claims in more detail at the appropriate future time, as authorized by the law and Department policy.

To clarify an apparent misperception and to avoid future confusion, I wish to make one point clear: in this case, I have not requested Special Counsel designation pursuant to 28 CFR § 600 *et seq.* Rather, I had discussions with Departmental officials regarding potential appointment under 28 U.S.C. § 515, which would have allowed me to file charges in a district outside my own without the partnership of the local U.S. Attorney. I was assured that I would be granted this authority if it proved necessary. And this assurance came months before the October 7, 2022, meeting referenced throughout the whistleblowers' allegations. In this case, I've followed the process outlined in my June 30 letter and have never been denied the authority to bring charges in any jurisdiction.

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<sup>1</sup> Letter from Sen. Lindsey O. Graham, Ranking Member, S. Comm. on the Judiciary, to Hon. David C. Weiss, U.S. Att'y, District of Delaware (June 28, 2023) (hereinafter, "the June 28 letter").

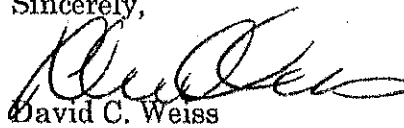
<sup>2</sup> Letter from Hon. David C. Weiss, U.S. Att'y, District of Delaware to Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary (June 30, 2023) (hereinafter, "the June 30 letter").

The Honorable Lindsey O. Graham  
July 10, 2023

Page 2

Your questions about allegations contained in an FBI FD-1023 Form relate to an ongoing investigation. As such, I cannot comment on them at this time.

Sincerely,

A handwritten signature in black ink, appearing to read "David C. Weiss", written over a circular stamp.

David C. Weiss  
United States Attorney

cc: The Honorable Richard J. Durbin, Chairman

Mr. Doggett. And also to introduce two news articles, one from FOX News on September 14th and another from CNN on September 20th: "Top IRS official latest witness to dispute allegations from whistleblower on Hunter Biden tax case."

Chairman Smith. Without objection.

Mr. Doggett. Thank you very much.

[The information follows:]

\*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

## FOX NEWS

### IRS whistleblower's boss pushed to have him removed from Hunter Biden investigation: Transcript

By Liz Elkind, 9/14/23

IRS whistleblower Gary Shapley's former superior recommended removing him from the federal investigation into Hunter Biden, a newly released transcript reveals, despite confirming key parts of Shapley's claims that the probe was vastly limited in scope.

IRS Special Agent in Charge Darrell Waldon sat for a closed-door interview with staff from the House Ways & Means Committee on Friday. Waldon was one of several people named by Shapley as having attended an Oct. 7, 2022, meeting in which then-U.S. Attorney for Delaware David Weiss allegedly discussed limitations on the Hunter Biden investigation.

Waldon, who said he was special agent in charge between "April of 2021 through February of 2023," said he recommended that Shapley be removed from the investigation for making "unsubstantiated" claims.

"So before I left the special agent in charge position, in February, I recommended to [IRS Director of Field Operations Michael Batdorf] that Gary Shapley be removed as the [supervisory special agent] from the Hunter Biden investigation, primarily due to what I perceived to be unsubstantiated allegations about motive, intent, bias. And, again, my goal was to protect the integrity of the investigation and figure out a way forward," Waldon told GOP investigators.

But Shapley was not reassigned until May, Waldon said. He also denied playing a role in Shapley's removal from the Hunter Biden probe.

Earlier in the interview, Waldon conceded the investigation was "sensitive" in nature but said "no" when asked if he thought the case was being politicized.

He also corroborated Shapley's complaint of being limited in the scope of his investigative duties.

"Yes. Or I should say at least of the things that they can ask in interviews, is my general awareness," Waldon answered when asked if Shapley said he and his team were "limited in who they could interview."



Waldon also said he recalled "a discussion" on the subject of Shapley and his team being "restricted from requesting certain interviews of relatives of Hunter Biden."

However, he denied recalling any instances where Shapley was denied specific requests.

Shapley previously claimed that Weiss told a group of law enforcement officials on Oct. 7 of last year that he was not "the deciding person" in charging Hunter Biden, despite both Weiss and the Justice Department vowing the Trump appointee had full autonomy over the investigation. Shapley had said that Weiss, now a special counsel, was denied the role at the time and was told he could not bring charges against Hunter Biden in Washington, D.C., or California.

Waldon confirmed to GOP investigators that the case was "presented" there but the U.S. attorney's office in Washington, D.C., "did not agree to take the case on."

Waldon said that if both D.C. and the Central District of California turned down the case, "There was processes that Mr. Weiss would have to work out with the Department of Justice, and that's my basic understanding."

After the Oct. 7 meeting, Weiss stopped speaking directly to Shapley altogether, Waldon said. "Mr. Weiss stated to me that he would not be communicating with Mr. Shapley anymore and he would be going directly to me," he said, recalling a communication from later that month.

While the IRS had ultimate say in whether an agent was reassigned, Waldon said that generally, "DOJ would communicate what their preference is, and then we would deliberate on that conversation."

President Biden's son faces scrutiny both by the Justice Department and GOP members of Congress. A plea deal struck between Weiss' office and Hunter Biden fell through earlier this summer.

Fox News Digital reached out to Ways & Means Committee Democrats and the IRS for comment.

## Top IRS official latest witness to dispute allegations from whistleblower on Hunter Biden tax case

By Annie Grayer, 9/20/23

A high-ranking Internal Revenue Service official has disputed claims by a whistleblower whose allegations about political interference into the Hunter Biden tax investigation are central to House Republican impeachment inquiries against President Joe Biden.

In closed-door testimony obtained by CNN, IRS Director of Field Operations Michael Batdorf told a House committee last week that it was his decision to remove the whistleblower, Gary Shapley, from the criminal probe into Biden's son in December 2022. But Shapley wasn't informed of that decision until May, the same month he brought his claims to Congress.

Batdorf, who testified at the behest of House Republicans, directly contradicts Shapley's claims that he was removed from the investigation as a direct result of his decision to criticize the way IRS and Department of Justice officials handled the high-profile tax case.

"I just want to go on the record. In my 22.5 years, I have never made a decision or restricted anyone out of spite, out of retaliation, out of anything," Batdorf stated. "That is not who I am."

Batdorf testified that he removed Shapley from the Hunter Biden probe due to Shapley's deteriorating relationship with US Attorney David Weiss, over what Batdorf said were "investigative differences, prosecutorial differences."

According to Batdorf, by November 2022, Weiss had decided to stop talking to Shapley. "It was David Weiss' moment of: I'm not talking to him anymore. He's harassing me," Batdorf said in describing an email from Weiss.

In his interview, Batdorf complimented Shapley for his work ethic, calling him a "fantastic agent" and "passionate" but also said there had been concerns over Shapley's behavior for months.

“Gary has a tendency to go to level like grade seven, five-alarm alarm fire on everything” Batdorf testified. “He has a mindset that if you don’t agree with him, I mean, you’re just incompetent,” Batdorf said.

Batdorf also took issue with Shapley’s decision to characterize Justice officials based on the president that appointed them.

“It’s unusual” Batdorf testified. “We’re supposed to be a nonpolitical organization.”

Shapley’s legal team told CNN that after his client spoke up about the “improper handling of the case,” Weiss “refused to interact with him – which is obvious retaliation for protected whistleblower disclosures regardless of whether Mr. Batdorf wants to admit it.”

Batdorf said that Shapley was not informed of the decision to remove him from the Hunter Biden case right away because at the time the case was at a standstill.

“There was not a reason to engage Gary Shapley on that until we knew the case was going to go forward,” Batdorf testified. “It would have been a waste of resources to assign a new investigative team to get up to speed on an entire investigation and then not have it go anywhere.”

During that time, Weiss, the US attorney in Delaware, was trying to determine whether he could partner with other US attorney’s offices in either California or Washington, DC.

Batdorf testified that Shapley informed him in January of his intention to go to Congress with his complaints. The case against Hunter Biden didn’t restart until May, roughly a month after Shapley first provided information to Congress. Shapley was finally informed he was off the case on May 15, according to Batdorf, eleven days before he would first testify behind closed doors to the House.

Shapley has claimed his testimony is what pushed Weiss to restart his work, a point Batdorf did not refute.

“David Weiss made his decision to go forward in May,” Batdorf testified. “I’m not sure what drove that decision.”

Batdorf is the latest government official to dispute portions of Shapley's whistleblower allegations.

Several FBI and IRS officials brought in for closed-door testimony by House Republicans in recent days said they don't remember Weiss saying that he lacked the authority to decide whether to bring charges against the president's son, or that Weiss said he had been denied a request for special counsel status.

Those twin claims, made by Shapley, form the basis of Republican accusations that the Justice Department's investigation into Biden's taxes was tainted by political influence and that Weiss and Attorney General Merrick Garland tried to protect Hunter Biden in the investigation.

The new testimony comes as House Republicans begin an impeachment inquiry into the president and his family, potentially undercutting one element of that effort.

In June, Weiss reached a plea deal with Hunter Biden on tax and gun charges. But the deal fell apart amid scrutiny from a judge, and Weiss subsequently requested special counsel status. Last week, Hunter Biden was indicted on the gun charges. Biden has told the court that he plans to plead not guilty to the charges.

According to Batdorf's testimony, in November 2022, a month after a key meeting between Weiss, Shapley and other agents working on the Hunter Biden investigation, Weiss informed Shapley's supervisor, Darrell Waldon, he would no longer be speaking to Shapley.

"In my 22.5 years of experience and all the different field offices and leadership positions I've been in, that is not a good sign," Batdorf said. "That is extremely troubling."

"It was November, and it was David Weiss' moment of: I'm not talking to him anymore. He's harassing me. He didn't say it, but in his email he basically says: Tell him to leave me alone. I'm not talking to him anymore. At that point, it's not a good situation for any – investigative team to be in," Batdorf, who was forwarded the email, testified.

Waldon separately testified to the House Ways and Means Committee that Weiss told him after an October 2022 meeting that he would "not be talking with Mr. Shapley henceforth, as they were going through their deliberative process."

Batdorf said that in December he was on a phone call with Weiss and Waldon to discuss how to overcome roadblocks preventing the investigation from moving forward and Weiss raised Shapley as one of his concerns.

“At a very general level, David Weiss had concerns with Gary Shapley’s ability to remain objective in the investigation” Batdorf said of the December phone call.

According to Batdorf, Weiss “never specifically stated” that Shapley and his team had to be removed and acknowledged that he does not control IRS resources.

“I don’t want to speak for David Weiss. It was not my impression that he was retaliating. It was my impression that Darrell and I were doing everything we could to move the case forward” Batdorf said.

Waldon also testified that he recommended to Batdorf that Shapley be removed from the case, due to what Waldon described as Shapley’s “unsubstantiated allegations about motive, intent, bias,” according to Waldon’s testimony to the House committee.

Batdorf manages approximately 1,000 people nationwide, and in his testimony said that only one regularly broke ranks to come to him directly with an issue: Gary Shapley.

Batdorf said that he was well aware of Shapley’s concerns that the Hunter Biden criminal probe was being slow-walked and mishandled and tried to support him. Batdorf agreed that there was plenty of evidence to charge the president’s son. His decision to remove Shapley, he argued, ultimately stemmed from his desire to get the case over the finish line.

Batdorf also testified that he supported Shapley’s decision to become a whistleblower.

“When he told me that he was a whistleblower, I offered support,” Batdorf said. “It’s your right and your role. You don’t need to take leave. You can – it’s your right as an agent to go do what you need to do. So stuff like that, that was the support.”

Mr. Doggett. With reference to the continued suggestions that Joe Biden had something to do with delays in the prosecution of Hunter Biden, I think the record is clear that this investigation began in the year 2018. Donald Trump was President that year. He was President the next year, 2019. He was President the next year, 2020.

If they have objection concerning the speed with which Hunter Biden was held responsible for his wrongdoing, they need to file it with those who were in charge of the Justice Department and Internal Revenue Service for almost 3 years under the Trump administration.

You know, when each of these whistleblowers and other witnesses come before the Committee, they raise their right hand and they swear that they will tell the truth, the whole truth, and nothing but the truth. And what we have seen here today is total disinterest of the Committee leadership in getting the whole truth. They have only presented us with a series of half-truths and innuendos and speculation.

There is a process by which they could have attempted to obtain the whole truth. No, their approach -- Ms. Sanchez, and the reason why you were so rudely denied an opportunity to make your inquiry -- is that it is easier to talk about the Biden family when you have absolutely no evidence, other than one totally discredited Bobulinski, that Joe Biden did anything wrong, that he was corrupt, that he was part of a crime family. That is why the continued reference to "the Biden family," because of the total absence of information and evidence concerning Joe Biden.

There is a process that this Committee could have used to get the whole truth. It is a process that Mr. Neal as Chairman used. He took a long time. I was critical of the time he took and the narrow scope that he used. But he followed that process to the letter of the law --

Mr. Wenstrup. Will the gentleman yield?

Mr. Doggett. -- as a guardian --

Mr. Wenstrup. Will the gentleman yield for a second? I just --

Mr. Doggett. I --

Mr. Wenstrup. I would like some clarification.

Mr. Doggett. Yep.

Mr. Wenstrup. Are you saying that the whistleblowers committed perjury?

Mr. Doggett. I am going to --

Mr. Wenstrup. And do you have proof --

Mr. Doggett. I am going to respond to that.

Mr. Wenstrup. -- that they lied? Thank you.

Mr. Doggett. And I will reclaim my time to respond specifically --

Mr. Wenstrup. Thank you.

Mr. Doggett. -- to it.

But I want to point out, the process that Mr. Neal used followed the letter of 6103.

And, in doing that, this Committee could have done the same thing. But they declined to do that, to get the whole truth. And, instead, they contracted out to these whistleblowers getting the records.

And whether they committed perjury or not, they seem, to me, on the face of their affidavit, to have violated 6103, to have gone back and searched through records to which they had no right, having been dismissed from this case.

So, rather than go and get the whole truth and follow the procedure that Mr. Neal followed in the Trump case -- there is a great contrast with the Trump case, because he followed the procedure, and they have totally ignored it because they are only interested in half-truths.

What we have today are wild allegations without proof. We have an attempted

smear of the President of the United States in a stampede that is apparently tied to totally other issues like keeping the government open, of having an impeachment inquiry. We have the same kind of defamation in which Donald Trump has engaged. He is a master of defamation, and that is what is occurring here today.

But, today, it is Trump who is a master at pulling the strings, at being the puppet master of something, to cover for his four indictments, for his being found to have engaged in fraud, in assault, in defamation. Desperate Donald has his minions here on this Committee today; they are doing his work. There is not a search for the truth. There is only defamation.

I yield back.

Chairman Smith. Mr. Smith is recognized to strike the last word.

Mr. Smith of Nebraska. Thank you, Mr. Chairman.

I just want to submit for the record statements from DelawareOnline that both Democratic Senators from Delaware applauded then-President Trump's appointment of Mr. Weiss as U.S. attorney for the District of Delaware. And I think that is particularly relevant given the circumstances we address today.

Chairman Smith. Mr. Smith, did you say two Democrat Senators applauded Mr. Weiss?

Mr. Smith of Nebraska. Both Delaware Senators applauded the appointment of Mr. Weiss as U.S. attorney for the District of Delaware.

Chairman Smith. Without objection.

[The information follows:]

\*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*



## LOCAL

# Carper, Coons release statement on Weiss' appointment

**Submitted News**

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Sens. Tom Carper and Chris Coons applauded President Donald Trump's appointment of David Weiss as the U.S. attorney for the District of Delaware.

Carper and Coons recommended Weiss to the White House to serve as the U.S attorney.

"David Weiss is an excellent choice for U.S. attorney for the District of Delaware," said Carper. "During his combined 16 years in the U.S. Attorney's Office, he has prosecuted corruption, money laundering, drug offenses, mail and wire fraud; and he spearheaded the successful effort to establish New Castle County as a high intensity drug trafficking area. He is highly respected in the law enforcement community, and I look forward to him hitting the ground running."

"I want to congratulate David Weiss on his confirmation and appointment to be the U.S. attorney for the District of Delaware," said Coons, a member of the Senate Judiciary Committee. "David is a career prosecutor and dedicated public servant, longtime Delawarean, and valued member of our law enforcement community. I want to thank the White House for working with Sen. Carper and me to present an excellent nominee for U.S. attorney."

Chairman Smith. Additional members wish to strike the last word?

Seeing none, are there any amendments?

Seeing none, Mr. Schweikert is recognized.

Mr. Schweikert. Mr. Chairman, I move that the Committee submit to the House of Representatives the materials under consideration today, which are comprised of one Committee report and eight submissions from the IRS whistleblowers, with accompanying exhibits and attachments.

Chairman Smith. The Committee will return to open session to vote on the motion offered by the gentleman from Arizona.

Prior to opening the doors, all materials under consideration will be collected by designated staff.

[Pause.]

Chairman Smith. The question is on the motion from the gentleman from Arizona.

The clerk will call the roll.

The Clerk. Mr. Buchanan?

Mr. Buchanan. Yes.

The Clerk. Mr. Buchanan, yes.

Mr. Smith of Nebraska?

Mr. Smith of Nebraska. Yes.

The Clerk. Mr. Smith of Nebraska, yes.

Mr. Kelly?

Mr. Kelly. Yes.

The Clerk. Mr. Kelly, yes.

Mr. Schweikert?

Mr. Schweikert. Yes.

The Clerk. Mr. Schweikert, yes.

Mr. LaHood?

Mr. LaHood. Yes.

The Clerk. Mr. LaHood, yes.

Dr. Wenstrup?

Mr. Wenstrup. Yes.

The Clerk. Dr. Wenstrup, yes.

Mr. Arrington?

[No response.]

The Clerk. Dr. Ferguson?

Mr. Ferguson. Yes.

The Clerk. Dr. Ferguson, yes.

Mr. Estes?

Mr. Estes. Yes.

The Clerk. Mr. Estes, yes.

Mr. Smucker?

Mr. Smucker. Yes.

The Clerk. Mr. Smucker, yes.

Mr. Hern?

Mr. Hern. Yes.

The Clerk. Mr. Hern, yes.

Mrs. Miller?

Mrs. Miller. Yes.

The Clerk. Mrs. Miller, yes.

Dr. Murphy?

Mr. Murphy. Yes.

The Clerk. Dr. Murphy, yes.

Mr. Kustoff?

Mr. Kustoff. Yes.

The Clerk. Mr. Kustoff, yes.

Mr. Fitzpatrick?

Mr. Fitzpatrick. Yes.

The Clerk. Mr. Fitzpatrick, yes.

Mr. Steube?

[No response.]

The Clerk. Ms. Tenney?

Ms. Tenney. Yes.

The Clerk. Ms. Tenney, yes.

Mrs. Fischbach?

Mrs. Fischbach. Yes.

The Clerk. Mrs. Fischbach, yes.

Mr. Moore?

Mr. Moore of Utah. Aye.

The Clerk. Mr. Moore, yes.

Mrs. Steel?

Mrs. Steel. Yes.

The Clerk. Mrs. Steel, yes.

Ms. Van Duyne?

Ms. Van Duyne. Yes.

The Clerk. Ms. Van Duyne, yes.

Mr. Feenstra?

Mr. Feenstra. Yes.

The Clerk. Mr. Feenstra, yes.

Ms. Malliotakis?

Ms. Malliotakis. Yes.

The Clerk. Ms. Malliotakis, yes.

Mr. Carey?

Mr. Carey. Yes.

The Clerk. Mr. Carey, yes.

Mr. Neal?

Mr. Neal. No.

The Clerk. Mr. Neal, no.

Mr. Doggett?

Mr. Doggett. No.

The Clerk. Mr. Doggett, no.

Mr. Thompson?

Mr. Thompson. No.

The Clerk. Mr. Thompson, no.

Mr. Larson?

Mr. Larson. No.

The Clerk. Mr. Larson, no.

Mr. Blumenauer?

[No response.]

The Clerk. Mr. Pascrell?

Mr. Pascrell. No.

The Clerk. Mr. Pascrell, no.

Mr. Davis?

Mr. Davis. No.

The Clerk. Mr. Davis, no.

Ms. Sanchez?

Ms. Sanchez. Hell no.

The Clerk. Ms. Sanchez, no.

Mr. Higgins?

Mr. Higgins. No.

The Clerk. Mr. Higgins, no.

Ms. Sewell?

Ms. Sewell. No.

The Clerk. Ms. Sewell, no.

Ms. DelBene?

Ms. DelBene. No.

The Clerk. Ms. DelBene, no.

Ms. Chu?

Ms. Chu. No.

The Clerk. Ms. Chu, no.

Ms. Moore?

Ms. Moore of Wisconsin. No.

The Clerk. Ms. Moore, no.

Mr. Kildee?

Mr. Kildee. No.

The Clerk. Mr. Kildee, no.

Mr. Beyer?

[No response.]

The Clerk. Mr. Evans?

Mr. Evans. No.

The Clerk. Mr. Evans, no.

Mr. Schneider?

Mr. Schneider. No.

The Clerk. Mr. Schneider, no.

Mr. Panetta?

Mr. Panetta. No.

The Clerk. Mr. Panetta, no.

Mr. Arrington?

Mr. Arrington. Yes.

The Clerk. Mr. Arrington, yes.

Mr. Steube?

[No response.]

The Clerk. Mr. Blumenauer?

[No response.]

The Clerk. Mr. Beyer?

[No response.]

The Clerk. Mr. Blumenauer?

Mr. Blumenauer. How am I recorded?

The Clerk. You are not recorded.

Mr. Blumenauer. No.

The Clerk. Mr. Blumenauer, no.

Chairman Smith?

Chairman Smith. Yes.

The Clerk. Chairman Smith, yes.

Chairman Smith. The clerk will report the vote.

The Clerk. The ayes are 24; the noes are 17.

Chairman Smith. There being 24 ayes and 17 noes, the motion is agreed to, and the materials are submitted to the House of Representatives.

Without objection, members have 2 additional days to file with the Committee clerk supplemental, additional, dissenting, or minority views.

Chairman Smith. There being no further business before this Committee, the Committee stands adjourned.

[Whereupon, at 12:17 p.m., the Committee was adjourned.]