

Testimony of Special Agent [REDACTED]
“IRS Whistleblowers About the Biden Criminal Investigation”
Before The Committee on Oversight and Accountability
U.S. House of Representatives
July 19, 2023

Honorable members of Congress, guests, and fellow citizens, Today I stand before you, not as a hero or a victim, but as a whistleblower compelled to disclose the truth. With a heavy heart, I come here determined to accurately share my testimony in the hope that justice may prevail and the trust in our democratic institutions can be restored.

I have come forward to this committee at your invitation – Just as I previously came forward to the House Ways & Means Committee at their invitation. On June 1st, 2023, I testified before the House Ways & Means Committee as an anonymous Whistleblower (Whistleblower X) and I am here before you today, testifying in public as [REDACTED], a 13-year Special Agent with the Internal Revenue Service, Criminal Investigation Division. I believe that I have a duty to bring to the public – and their elected representatives - and provide full transparency of the facts as I know of them regarding the criminal investigation of Robert Hunter Biden.

We live in a society built upon the pillars of transparency, accountability, and the rule of law – Importantly, no one person is above the law. These pillars are meant to ensure that power is used in the interest of the people and not for personal gain or hidden agendas. Yet, it is with great regret that I reveal to you the shadow that looms over our federal legal system.

I have witnessed the corrosion of ethical standards and the abuse of power that threaten our nation. It is within this context that I have chosen to shed light on these actions and expose those responsible. I recognize that while I was present at the start of this investigation and was closely involved with the investigation for roughly five years – that I’m just a part of the story. Others – including my colleague and supervisor Gary Shapley who is here with me today – have their own views and understandings of what took place during this investigation

Whistleblowers play a vital role in our society shining a light on the darkest corners, risking personal reprisal for the greater good. Let me emphasize that my testimony is not an attack on any specific individual or political party. My aim is to address systemic problems that have allowed misconduct to flourish. It is not a call for blame, but a call for accountability and reform. At the end of the day, these are ultimately the two reasons for me being a Whistleblower. I believe that we need to hold those accountable for their unethical and inappropriate behavior so that we can learn from our mistakes and create policy and reform so that this doesn’t happen again in the future.

Transparency is the foundation of our democracy. Without it, people lose their trust in the institutions and the bonds that tie the fabric of our nation start to fray. The American people deserve to know the truth, no matter how uncomfortable or inconvenient it may be for either political party or those in power.

I had recently heard an elected official say that I must be more credible, because I am a gay democrat married to a man. I'm no more credible than this man sitting next to me due to my sexual orientation or my political beliefs. I was raised and have always strived to do what is right. I have heard from some, that I am a traitor to the democratic party and that I am causing more division in our society. I implore you, that if you were put in my position with the facts as I have stated them, that you would be doing the exact same thing – regardless of your political party affiliation. I hope that I am an example to other LGBTQ people out there, who are questioning doing the right thing at a potential cost to themselves and others. We should ALWAYS do the right thing, no matter how painful the process might be. I kind of equate this to coming out, it was honestly one of the hardest things I ever had to do. I contemplated scenarios that would have been highly regrettable. But I did what was right and I am sitting in front of you here today.

I would like to take a minute to thank some people for their unfettered help and support. First off God – For giving me the strength and courage to go through this process. My husband, who has been my rock, has put up with me and my stress, and has had to deal with his personal information being displayed on Social-Media as a part of this matter. My attorney Dean Zerbe, who has agreed to represent me in this matter pro-bono and someone who has provided so much help and guidance through this process The investigative team. The work that was done on this case is tremendous but seems to have been overshadowed by what is happening here today and I just want to say to the investigative team that I am thankful for having worked with you. My family and friends back home in North-East Ohio and Georgia. I do not live in the Washington DC area. I have to fly here and have had to pay out of pocket for all of my travel related expenditures in dealing with being a Whistleblower. On that note, I would like to make the statement that I have not accepted a single payment from anyone for being a whistleblower.

I would like to address a couple of high-level arguments that have been raised against us Gary Shapley & Me. The first concerns Mr. Weiss's authority. Mr. Weiss stated that he had been granted "ultimate authority" over this matter but then later stated in the same letter that his "charging authority" is geographically "limited" and that he would need to ask President Biden appointed U.S. Attorney's to "partner" with him in charging the case. We know that as recently in March of 2023, even the Department of Justice-Tax Division attorney assigned to the case questioned Mr. Weiss's authority and didn't know where Mr. Weiss was going to charge the case. Mr. Weiss stated that he was "making decisions necessary to preserve the integrity of the prosecution, consistent with federal law, the Principles of Federal Prosecution, and Departmental regulations." In the Criminal Tax Manual, Chapter 10, found on the Department of Justice website. Tax Division policy states, "Cases involving individuals who fail to file tax returns or pay a tax but who also commit acts of evasion or obstruction should be charged as felonies **"to avoid inequitable treatment"**". In Early August of 2022, federal prosecutors from the Department of Justice Tax Division drafted a 99-page memorandum. This memorandum recommended approving felony and misdemeanor charges for the 2017, 2018 and 2019 tax years. If the Delaware U.S. Attorney David Weiss followed DOJ Policy as he stated in his most recent letter, Hunter Biden should have been charged with a tax felony, and not only the tax misdemeanor charge. We need to treat each taxpayer the same under the law.

Under the criminal code, two key considerations in charging violations under Title 26 are Willfulness and a tax loss. In the criminal context, Willfulness is defined as “a voluntary, intentional violation of a known legal duty.” The tax loss is the monetary loss to the government. After our testimony, some have raised issues regarding whether Hunter Biden’s conduct with respect to his income tax violations was willful and whether there was sufficient monetary loss to the government. In early 2020, Hunter Biden’s unfiled and delinquent tax returns were being prepared, which included his 2018 tax return. During the 2020 time period, by Hunter Biden’s own account he was sober, newly married, and writing his memoir. Hunter Biden’s accountants requested that he sign a representation letter stating that all deductions were for business purposes and were being reported appropriately. Statements Hunter Biden made in his book completely contradicted what was being deducted as business deductions on his 2018 tax return. While writing his memoir, Hunter Biden stated, “I holed up inside the Chateau for the first six weeks and learned how to cook crack.” For this time period, Hunter Biden claimed business deductions for payments made to the Chateau Marmont, a hotel room for his supposed drug dealer, sex club memberships (falsely referenced on the wire as a golf-membership), hotels he was blacklisted from, and a Columbia University tuition payment for his daughter. All of these items were used to support the willfulness element for felony tax evasion and false return as they would be in any case involving any other taxpayer. These false deductions claimed by Hunter Biden caused a false return to be prepared that underreported his total income by approximately \$267,000 causing a loss to U.S. Treasury of \$106,000. This loss is referred to as a “tax deficiency”.

With respect to the 2014 tax year, Hunter Biden did not report any of the money he earned from Burisma for the 2014 tax year, which would have been a tax loss to the U.S. Treasury of \$124,845. According to my previous testimony, Hunter Biden did not report this income to the IRS or pay tax on this source of income.

I would like to make clear that the charging document from the District of Delaware, Hunter Biden was charged with failure to timely pay taxes for 2017 and 2018 in excess of \$100,000 for each tax year. On Hunter Biden’s 2017 and 2018 tax returns, Hunter Biden reported taxes owed of \$581,713 and \$620,901, respectfully. This tax amount for 2018 would not have included the alleged additional tax due and owing of from a filed false return of \$106,000.

Another argument raised related to the WhatsApp messages which Gary Shapley included in his testimony. I can tell the committee that I was the agent who assisted with summarizing and had included these messages as a part our case overall timeline. In response to a Search Warrant, the investigative team found these WhatsApp messages on Hunter Biden’s Apple iCloud account.

I would like to point out that one of the messages shown on Exhibit 11 on 8/3/2017 shown toward the end of the conversation, Director Zang says that he wants to convey “his best regards to you, Jim and VP.” This may be direct contradiction to what President Biden was saying about not being involved in Hunter’s overseas business dealings.

Another argument raised was that the assigned prosecutors disagreed with the agents as to the charges they were going to bring. This could not be further from the truth. In the Fall of 2021, I met with the prosecutors assigned to this case and we all agreed and decided which charges we

were going to recommend in the prosecution report, which included felony counts related to 2014 and 2018. In March of 2022, the prosecutors requested Discovery from the investigative team and presented the case to the DC U.S. Attorney's Office – both steps that are done in an effort to potentially charge the case. In later meetings in Early August of 2022, the assigned prosecutors (4 attorneys) agreed to recommend felony and misdemeanor charges for the 2017, 2018 and 2019 tax years, in so far as the Department of Justice -Tax Division attorney sent an email about conducting the case in “two separate Districts: Delaware, Los Angeles”.

At that time, there did not seem to be any disagreement with Mr. Weiss. In August or September of 2022, Gary Shapley and I met with Mr. Weiss and he stated that he agreed with us regarding the 2014 and 2015 tax year misdemeanor and felony charges, but that this could somehow affect the later year misdemeanor and felony charges which he conveyed were so much stronger.

My hope is that as the American people and their representatives as they weigh and consider this matter and listen to my testimony today will bear in mind that I am coming forward at significant risk to my career, risk to my family.

Today, I am again under oath and will perform my solemn duty. Previously, On June 1st, I testified under oath for over 7 hours to a bi-partisan committee. Finally, in addition to testifying under oath, I will be providing significant documentation in the coming weeks to the House Ways & Means committee in response to questions from today's hearing as well as to further support my statements and will identify other individuals that can corroborate my statements. I suggest that others who wish to provide their views on the facts of this investigation be required to meet a similar standard.

I implore each one of you to set aside personal biases, political affiliations, and to uphold the responsibility bestowed upon you by the citizens you represent. It is your duty to investigate the claims presented before you today, to delve into the evidence we have brought forth, and to hold those accountable who have breached the sacred trust placed upon them. In closing, I stand here as a whistleblower not to tear down the foundations of democracy, but to rebuild them stronger and more resilient than before and ensure that the integrity of our democratic systems is preserved for future generations.

Agent Background

I have been an agent with the IRS since 2010. In 2007, I received my undergraduate degree in Accounting from Ohio University and my Master's in Business Administration from John Carroll University in 2009. Prior to starting my career at the IRS, I worked as an external auditor for Ernst & Young.

Throughout my career with the IRS, I have held multiple collateral positions, as well as worked a variety of criminal tax and money laundering investigations. Over the years, I have received “Outstanding” on my performance evaluations in receiving multiple performance awards and having also received a Quality Step-Increase, which is one of the highest valued performance

awards. I received a Special Act award recognizing my work as a Public Information Officer. In 2016, I received the Ohio University Accounting Young Alumnus of the Year Award. During my time at the IRS for approximately 4 years, I volunteered as a Middle School Boys Basketball Coach for Kirtland Middle School, my alma mater. This was a phenomenal opportunity for me as I was able to mentor middle school kids through coaching – something that I had loved to do.

I was a health care fraud coordinator having worked criminal tax and money laundering investigations of physicians, pharmacists, and medical billing companies. I have authored and have been the affiant of physical and electronic search warrants. I have authored and have been the affiant of seizure warrants having seized millions of dollars-worth of criminal proceeds laundered through the purchase of homes, vehicles, jewelry and the use of bank accounts.

I was a Public Information Officer in which I worked as a liaison for the IRS working with the United States Attorney's Office, our law enforcement partners, and our media partners in helping get publicity for the tax cases worked by our IRS Special Agents. This collateral duty allowed me to get a whole different perspective of the "why" we do our job. If you have a successful criminal tax case, and no one hears about it – is it really successful? The mission of IRS-CI is clear. It is to investigate potential criminal violations of the internal revenue code and related financial crimes in a manner that fosters confidence in the tax system and compliance with the law. My agency has to continually work to show the American Public this mission. It's against the law to commit various tax offenses and what could happen to them if they choose to break the law.

In November of 2018, I transitioned to being a part of the International Tax & Financial Crimes Group out of Washington DC. Prior to November of 2018, while I was working as the Public Information Officer, I took over as the case agent of an extremely complex Captive Insurance – International Tax Investigation. This Captive investigation was the first of its kind, it had a lot of issues, to include age of the case, and I was coming in as the second assigned case agent as the previous case agent was promoted to supervisor. I took over and worked this investigation for approximately 3 years with Department of Justice-Tax Division attorneys and an Assistant US Attorney.

In addition to working the Hunter Biden investigation, I was also working as the lead case agent on an even bigger case involving a Global Social Media Company. In addition, I was the lead case agent on a complex, international tax evasion scheme which involved an individual who had a net worth of more than a Billion dollars. Prior to bringing charges, the target of the investigation passed away due to an illness.

Why I Came Forward to the Committee

I ultimately have made the decision to come forward after what I believe were multiple attempts at blowing the whistle internally at the IRS. In coming forward, I am risking my career, my reputation and my casework outside of this investigation. I believe that the Delaware USAO and

DOJ-Tax have a clear target on me and my supervisors back and I believe that they are just waiting for an opportunity to pounce on us. My own agency retaliated against me and threatened me with criminal conduct in response to an internal email I sent to IRS leadership, even after years of essentially being left on an island when it came to this investigation. It is not my desire to become a martyr for this case – and I fear effectively ending my career. I did not ask to be in this position, nor did I want to be.

My supervisor Gary Shapley, who I whole heartedly respect, decided to blow the whistle on how this investigation was handled because his redline was crossed – the timing of when he did it was something that we did not agree on, but he felt he had to and I wasn't going to stop him from doing what he thought was right.

(I would like to note again for the committee that I wasn't present at the leadership meeting on October 8, 2022, that Mr. Shapley and leaders from the IRS were a part of, when U.S. Attorney David Weiss made the statements about not being in charge.)

At the end of the day, I worked on a complex criminal tax investigation over the last 5 years and the investigative process is 99.9% done and we were in the process of bringing the case to indictment. Since October of 2022, the Delaware AUSAs and DOJ-Tax had effectively stopped communicating with me and my team has ultimately been removed from the investigative team.

I'm pleased to respond to the Committee's request to assist them in their oversight work. I have a reason to believe that there was gross mismanagement present throughout this investigation, that there was a gross waste of funds relating to the tax dollars spent on investigating this case, and that there was an abuse of authority with DOJ-Tax and the Delaware United States Attorney's Office. In providing this testimony, I will continue to protect sensitive and secret material and will also strive to protect current and ongoing investigations that are "spinoffs" from the Hunter Biden investigation.

Case Initiation

I had started this investigation in November 2018 after reviewing bank reports related to another case I was working of a Global social media company. I want to be clear that no one directed me to look into Hunter Biden and that reviewing bank reports is a normal part of our process as IRS Investigators in finding potential tax case leads. Those bank reports identified Hunter Biden as paying prostitutes related to a potential prostitution ring. Also included in bank reports was evidence that Hunter Biden was spending lavishly from his corporate bank account – A typical thing we look for in tax cases. In addition, there was media reporting relating to Hunter Biden and tax issues in his divorce proceedings with his ex-wife, Kathleen Buhle.

After approximately four months of continuing to pull internal and public reports (preliminary steps), I had drafted my initiation package for Hunter Biden that was ultimately approved to go forward to Department of Justice-Tax Division. That referral asked for the investigation to go to

the DC U.S. Attorney's office because that's where I had determined venue was for the tax case. I did not know at the time that the Delaware U.S Attorney's office and the FBI had already opened an investigation related to the bank report in and around January 2019. I was told at the time that after inter-department discussions within DOJ at a Senior level, the tax investigation related to Hunter Biden would join the active investigation being conducted out of the Delaware U.S. Attorney's Office and Delaware FBI Office. I recall creating venue analyses for DOJ-Tax showing that venue should be in Washington DC, but I was ultimately overruled by everyone above me. It was at this time that we had also learned that the FBI in Delaware were referring to Hunter Biden by the codename "Sportsman".

Transition of Case to Delaware U.S. Attorney's Office

There were definitely potential issues I saw with working this case in Delaware. We were working with a small USAO who might not have ever worked a case of this caliber. Delaware was the state in which the subject's father lived in and the family was extremely well known throughout the state, including people on the team. This was later evident by the President, Joe Biden, having to come into the FBI office on an unrelated matter, and it being joked with the team. Another example was that a magistrate judge in Delaware made inappropriate comments at the signing of the first electronic search warrant that had caused her to recuse herself from the investigation, which set us back an additional 4 months as we had to draft new warrants and redo investigative steps. This is a few of the many issues that we encountered with working the case out of Delaware, but at the end of the day, I constantly remember telling myself, my co-case agent and my supervisor that these are issues we have to deal with and there is nothing we can change. We just have to deal with every challenge and roadblocks that were put in front of us and continue to do what is right, for the right reasons.

As I had previously testified, another devastating blow to working the investigation was losing one of the AUSA's to the private sector in and around early 2020. Former AUSA Jamie McCall, who was a Judge Advocate in the Marine Corps, working primarily as a prosecutor (achieving the rank of captain), was a hard-working, no-nonsense kind of AUSA. I always thought in talking with him that he wanted to do the right thing for the right reason. He would constantly push the envelope and it was apparent that he was following the evidence and not working to create roadblocks. I firmly believe that his departure had a significant impact on the future of the investigation and the investigative steps.

Examples of Prosecutors not Following Normal Process / Roadblocks

As I had previously testified, I plan on providing to you some instances in which the assigned prosecutors did not follow the ordinary process, slow walked the investigation and put in place unnecessary approvals and roadblocks from effectively and efficiently investigate the case. This is obviously not all of them but is a small set of examples for you.

After the day of action / Interview Day on December 8, 2020, the prosecutorial and investigative team assigned met on multiple occasions to discuss next steps after the case went overt. One piece of information that came out of the day of action was that when Hunter Biden vacated his Washington, D.C. office, some items from that office all went into a storage unit in Northern Virginia. On the night of the day of action, at the direction of AUSA Lesley Wolf, I prepared an affidavit in support of a search warrant for the storage unit. After receiving the affidavit, AUSA Wolf stated that it could take some time to get approvals and had also brought up some issues with conducting search warrants in the 4th Circuit. Again, this was not normal process as I have had many circumstances in which we find out about potential evidence being found and wanting to execute a search warrant immediately as to prevent the contents from being destroyed or moved, and the applicable U.S. Attorney's Offices working with us to get the warrant accomplished in a timely / expeditious manner. A few days later, AUSA Wolf ultimately objected to doing the warrant as it might create more issues and stated that we should be able to get the records through the records request issued to Hunter Biden during the day of action.

The following is based on my recollection as I didn't document the call, but AUSA Wolf called me a few days after I sent a draft of the warrant for the storage unit and told me that we weren't going to move forward with the storage unit search warrant. I told AUSA Wolf that I completely disagreed with her, that we weren't following the appropriate investigative steps, and that I thought she might be acting inappropriately. At that time, AUSA Wolf asked me if we had a problem working together moving forward and if I had issues with working with her. I responded at the time that I didn't and that we could move forward. After thinking about it further, I asked AUSA Wolf if they could not tell the Subject or his counsel that we know about the storage unit and see if he accesses it for 30 days, when the records request was due. If at this time he did not access the storage unit, we know that he was not complying with the records request and we could move forward with the search warrant. AUSA Wolf said "she would think about my request". After my call, I told my supervisor, Gary Shapley about the call and idea. He then told me that he would bring this up to the SAC and U.S. Attorney David Weiss about this issue, which he told me that he did. From what I was told, U.S. Attorney Weiss agreed that if the storage unit wasn't accessed for 30 days, we could execute a search warrant on it. We later heard that AUSA Wolf and DOJ-Tax Attorney Mark Daly had ultimately reached out to Hunter Biden's defense counsel and told them about the storage unit, once again circumventing our chance to get to evidence from potentially being destroyed, manipulated or concealed. My Supervisor was informed by the Special Agent in Charge at the time that she would be informing the Director of Field Operations and the Deputy Chief of IRS-CI of her, "frustration [with] the USAO not allowing us to go forth with the [search warrant]." This was the second search warrant instance where prosecutors agreed that probable cause was achieved but would not allow the investigators to execute a search warrant in a clear indication of the preferential treatment of Hunter Biden. At a later date, I recall hearing from discussions with Hunter's attorneys that one of the unfiled returns could not be located and was "missing".

This for me was a turning point as to when I started to believe that the prosecutors and attorney's with the Delaware USAO and DOJ-Tax were not acting ethically and / or appropriately and that we might not have a seat at the table.

I can recall wanting to interview and get records from Hunter Biden's adult children and members of the Biden Family. There were expenses paid for the adult children, as well as potential credit card expenditures and Venmo payments, which were deducted on Hunter Biden's 2018 tax return. On October 21, 2021, AUSA Wolf told us it "will get us into hot water if we interview the President's [adult] grandchildren." This, again, was abnormal and a deviation from normal procedure.

I can recall another situation in which investigative activities were being held up by unnecessary approvals and constant slow-walking. In essence, they were not letting me do my investigative job. In an email regarding requesting documents, I say: "Attached are these document requests for interviews I'm planning to do that are out of town." At the time, I was planning to do these interviews, and I needed to send the prosecutors document requests for those interviews and only they were able to provide those documents to me.

AUSA Lesley Wolf says to me on September 9th, 2021: "I do not think that you are going to be able to do these interviews as planned. The document requests require approval from Tax Division. At present, Jack and Mark are racing to get the EWC motion on Stuart's desk" – Stuart Goldberg was the [Acting] Deputy [Assistant] Attorney General at DOJ-Tax Division -- "Stuart's desk for approval before he leaves town for a week. Along with the approval for the Mesires [records request], both of these items are higher priority and we can't pull time and attention away to move these [records request] through. Appreciate that are you always trying to stay active and do some travel before your end, but we will be able to get these interviews and document requests done when we have a little more breathing room."

My response to her, September 10th, 2021, was: "Okay. I had planned stuff like this for weeks in advance to prevent this from happening. I had brought up these interviews on multiple occasions, dating back to August 18. And now we are being prevented from doing it 4 days before. This is making it difficult for me to do my job. I don't understand why DOJ Tax senior management is needing to approve every simple document request and/or witness interview, and maybe this is a conversation that needs to be had at a higher level. I can push these interviews off. Just know that I'm trying to do as much as I can to plan and get the tasks handed down to me accomplished in a timely manner in an effort to ultimately finish the pros report." This didn't make any sense to me nor have I have ever had records requests like this that needed the approval of DOJ-Tax management – More specifically, Stuart Goldberg.

IRS Prosecution Recommendation

In October of 2021, we had what was called a tax summit to where all of the investigators assigned, to include investigators from the FBI and the prosecutors assigned to include DOJ-Tax attorney's

Jack Morgan and Mark Daly, AUSA's Lesley Wolf and Carly Hudson from the U.S. Attorney's Office in Delaware. At this meeting, we had discussed the evidence thus far in the case and what charges I was going to draft as a part of my IRS prosecution report. At that time, everyone present made the collective decision on recommending misdemeanor tax charges (Failure to timely file and/ or pay taxes) for the 2014, 2015, 2016, 2017, 2018, and 2019 tax years and felony counts (False return and Tax Evasion charges) related to 2014 and 2018 tax years.

I drafted the prosecution report in November of 2021, after our October meeting. Our reports take a lot of time and contain a lot of evidence. The report first went to our internal counsel called Criminal Tax counsel ("CT Counsel"). CT Counsel reviews our prosecution report for legal issues, and they give a recommendation to our IRS leadership on whether to move the case forward or not. They basically give an approval or a declination. All along, the line CT counsel attorney, Christy Steinbrunner, was telling me that we we're good to go on the charges I had recommended and that I'm going to give you a green and yellow light on the recommended tax charges, and that she was recommending to her leadership a concurrence to all recommended misdemeanor and felony charges for all tax years. In February of 2022, after Christy's leadership reviewed her report, CT Counsel ended up sending a non-concur related to the recommended charges for all tax years.

I messaged the CT attorney, Christy Steinbrunner, and I said to her: "You told me that we were concur, that we were good to go". And she said: I always told you it was green and yellow. Later in that same message, I said to her "I thought we were always a green light on 2018 - that was what I was most shocked by" and she responded, "We would have had a better chance with it if we separated it out from all the failure to file/earlier stuff. I couldn't get them past that. So here is the deal, even though it is a non-concur, there is a thorough analysis of the evidence for each charge. And it says in the legal analysis that there is enough to make a case on 2018 -- at least for the travel stuff. And we just advise. Tax Division can still do whatever it feels best."

I have come to learn that it is common in international tax, high profile and complex investigations that CT Counsel will provide a non-concur to the tax charges presented to them. At the end of the day, they are considered advisory and recall hearing many times from attorneys with Department of Justice that they don't care what CT Counsel says regarding a case. It is common that IRS will proceed with recommending charges to DOJ, even with a non-concur recommendation from CT Counsel. I would like to note that even after receiving this non-concur from CT Counsel, we presented the case to our Senior Leadership and they agreed with the evidence and the felony and misdemeanor charges we were recommending.

Case Approved & Sent to Department of Justice to Prosecute

On February 25th, 2022, the IRS sent the prosecution report forward to DOJ Tax and the U.S. Attorney's Office. In my report, proper venue for the case was in the District of D.C. and the Central District of California. We had no venue in Delaware whatsoever for the tax charges, and

we had known this for at least a year prior to this. For the failure to file charges, venue would be where the subject lives. For the false return charge, venue would be where the return is prepared or sent from. For the tax evasion charge, venue would be where the overt acts occurred. For the recommended 2014, 2015 and 2016 felony and misdemeanor tax charges, the believed venue was in Washington D.C. and for the recommended 2017, 2018, and 2019 felony and misdemeanor charges, the believed venue was in the Central District of California.

In March of 2022, based on conversations with the prosecutors assigned, I know that they are wanting to bring the tax case in the District of Washington. From my recollection of conversations, I was told that it was sent to the line attorneys in the D.C. U.S. Attorney's Office. They were sent my IRS prosecution report with the recommended charges and evidence cited above. The line attorneys at the U.S. Attorney's Office in the District of DC, told our assigned prosecutors that they would assign an Assistant U.S. Attorney from their office to assist and help with the process. I would like to note that we asked the assigned prosecutors a few times to present on my prosecution report and the recommended charges to the prosecutors at the DC U.S. Attorney's Office but was denied. This was not normal as it would be typical for the case agents to present on the evidence if the case was going to move to another district.

A few days later after that meeting, I get a phone call from DOJ-Tax Attorney Mark Daly. Mark Daly had said that now that the U.S. Attorney in the District of DC (believed to be President Biden Appointed U.S. Attorney Matthew Graves) looked at the case, and that he didn't want to move forward with the charges. Mark Daly told me that not only are they not going to join the case and give us assistance, they also told our prosecutors that they didn't think we have the evidence for the charges to charge in the District of D.C. So not only was it a no, we're not going to help you, but it was an additional comment of that we shouldn't bring the charges in the District of DC. It was disappointing that we had gone from being told by the line DC Assistant U.S. Attorneys that they were going to assist with moving the case forward, to that the President Biden appointed U.S. Attorney for Washington DC, did not want take the case and was not going to assist with the case.

This was obviously frustrating to the prosecutors and the investigative team. But at the end of the day, they were following the normal process in this circumstance.

At this point we were no longer really talking about D.C. anymore. We also now hear some defenses presented by Hunter Biden's defense counsel for 2014 and 2015. At this point, we ended up reinvestigating the evidence of for the potential charges related to the 2014 and 2015 tax years (trying to flush out and work through any issues). After the DC U.S. Attorney's Office had said no, it was then told to us that Delaware U.S. Attorney David Weiss was now in charge of making the decision on whether or not to move forward and charge the felony and misdemeanor tax charges for those years. I can also recall discussing at the agent level (with my co-case agent, IRS Leadership to include Gary Shapley, and the investigators with the FBI), after the DC U.S. Attorney's Office had said no to the charges, on how we could recommend

assigning a Special Counsel to the case and/ or having David Weiss be that Special Counsel. I don't recall if we ever brought this up to David Weiss at the meeting in June of 2022 or in the meeting in August / September of 2022.

We ultimately ended up asking for a meeting with Delaware U.S. Attorney David Weiss and was afforded that meeting which occurred in mid-June of 2022. The day after that meeting, we met in Washington DC with Delaware U.S. Attorney David Weiss and Stuart Goldberg, the Acting Assistant Attorney General of the DOJ-Tax Division, the assigned prosecutors, the assigned investigators and leadership from the FBI and IRS-CI. During both of these meetings, there were multiple presentations on the findings regarding all of the tax years and relevant tax charges. I can recall after hearing all of the evidence and relevant issues, that the leadership from the FBI didn't understand why we weren't moving forward and charging the tax case immediately.

Even after this meeting in June of 2022, David Weiss told Shapley and I in an email that he is always appreciative and mindful of the extraordinary effort the team, and specifically SA [REDACTED], have put into the case. This was consistent with the comments I had received from the prosecutors assigned to the case as well.

In early August of 2022, we had a phone call with the assigned prosecutors and the investigative team, to include my Supervisor Gary Shapley. On this call, the assigned prosecutors had said that the U.S. Attorneys assigned (AUSA Lesley Wolf and Carly Hudson) and the DOJ-Tax Attorneys assigned (Mark Daly and Jack Morgan), were going to recommend for approval the misdemeanor and felony charges for 2017, 2018, and 2019 tax years and that the appropriate venue would be in the Central District of California which was written up in a 99-page prosecution memo. At that point they were not approving the misdemeanor and felony tax charges related to 2014 and 2015 and that I was going to be able to present one more time to Delaware U.S. Attorney David Weiss on those charges and tax years.

In an email from Mark Daly on August 18th, 2022, after this phone call, Mark basically said, we have three upcoming interviews for weeks in September. Mark said that the week of September 19th, we may be conducting the case in two separate districts: Delaware, Los Angeles. And further said for Los Angeles, that they're going to intro the case and possible readback. So that shows me that they're presenting the case out to California, they've approved the charges, and they're moving forward with it.

In late August / Early September of 2022, Gary Shapley and I have one last meeting with Delaware U.S. Attorney David Weiss and leadership from the Delaware U.S. Attorney's Office, to talk about the misdemeanor and felony tax charges for 2014 and 2015. At that meeting, from what I recall, David agreed with us regarding the potential charges for the 2014 and 2015 tax years. He said they were great and that we had thoroughly investigated it. But David had been getting concerns from DOJ Tax regarding charging the 2014 and 2015 tax years. He further said that they viewed at a trial, that evidence brought forward related to these tax years could affect

the charges brought for the later years, which he stated were much more clear and stronger. He cited information regarding the subject's brother's death, Hunter Biden's substance abuse and that could cause the jury to have sympathy for Hunter Biden and to potentially acquit on all of the charges. At this meeting David told us that he was still weighing the evidence and the charges. At that meeting, we ask David when he plans on charging the case out in California and he says, hopefully by the end of September.

Media Leak to the Washington Post

On October 6, 2022, the Washington Post published an article discussing details of the Hunter Biden investigation and it speaks to a contention between the investigators and the prosecutors on whether to bring criminal charges in the case. In the same article, there were statements made from Hunter Biden's defense counsel in which he said that the investigators were biased and was threatened the investigators with criminal wrongdoing if information was being leaked to the media.

On October 7, 2022, a meeting was held with IRS-CI and FBI leadership with Delaware U.S. Attorney David Weiss. Again, I was told by my supervisor Gary Shapley that David Weiss had stated that he was not the deciding official on whether charges are filed which was completely contradictory to what Attorney General Merrick Garland had been telling Congress and the American Public regarding this investigation.

On December 7, 2022, I wrote an email to DOJ-Tax attorney that said, "So I was informed by my SAC that the meeting scheduled for tomorrow needed to be canceled and that he will field updates from now on. Please confirm that this is correct and send out a meeting cancellation to the team." Mark Daly responded on December 8, 2022 and said, "David [David Weiss, Delaware U.S. Attorney and Darrell [Darrell Waldon, the SAC of IRS-CI] had been in conversation, and that's what they have decided. I will let the team know." So at this point, all substantive communication had been stopped between the IRS investigators and the assigned prosecutors.

In and around January / February of 2022, I had learned from my IRS-CI leadership as well as investigators with the FBI that they had been told that the California U.S. Attorney's Office [President Biden Appointed U.S. Attorney E Martin Estrada] had also said no to bringing the tax case in the Central District of California.

On May 15, 2023, I learned that I, my supervisor Gary Shapley, and all of the agents in my International tax group were removed from the Hunter Biden Investigation and that the investigation would be transferred over to a brand new agent and supervisor from another group in the Washington DC Field Office.

Summary of Tax Charges Recommended

The following is a summary of the tax charges which I had previously testified about, as well as the information that was shared with the Department of Justice in recommending prosecution of Hunter Biden (Please note that amounts listed below are approximate figures):

| Particulars (Based on Evidence Gathered in Investigation) Item: Title 26 USC Sections 7201 & 7206(1) (Tax Evasion & False Return) | Venued in the District of DC | Venued in the Central District of California | | TOTAL |
|--|------------------------------|--|--|------------|
| | 2014 - Personal Scenario A | 2018 - Personal | | |
| <u>Computation of Corrected Taxable Income & Unreported Taxable Income for Charging Purposes</u> | | | | |
| 1 Unreported Taxable Income | \$ 335,265 | \$ 267,269 | | \$ 602,534 |
| 2 Additional Tax Due and Owing | \$ 124,845 | \$ 106,945 | | \$ 231,790 |
| * These amounts do not include Applicable Penalties & Interest | | | | |

| Particulars (Based on Evidence Gathered in Investigation) Item: Title 26 USC Section 7203 (Failure to Timely File and/or Pay Taxes) | Venued in the District of DC | Venued in the District of DC OR the Central District of California | Venued in the Central District of California | Venued in the Central District of California | Venued in the Central District of California | Venued in the Central District of California | TOTAL |
|--|------------------------------|--|--|--|--|--|--------------|
| | 2015 | 2016 - Personal | 2017 - Personal | 2017 - Corp | 2018 - Personal | 2019 - Personal | |
| <u>Computation of Unreported Taxable Income & Taxes Not Timely Paid for Charging Purposes</u> | | | | | | | |
| 1 Total Tax Not Timely Paid (Not Timely Paid) | \$ 100,675 | \$ 45,661 | \$ 581,713 | \$ 13,630 | \$ 620,901 | \$ 197,372 | \$ 1,559,952 |
| * These amounts do not include Applicable Penalties & Interest | | | | | | | |

Closing Remarks

As I had previously testified in my closing, I wish to state it once again. I think about all of this, the difficult and grinding path that I and my colleagues have had to take in this matter, and how best it could be avoided.

I humbly view my role here today and response to the committee's request was to provide the facts as I best understood them, and to let Congress, the administration, and the public consider those facts and determine the best path forward.

However, for myself, as I reflect, it is not difficult not to believe that appointing a special counsel in this matter is the best way to go forward to give everyone confidence in the fairness of our tax system.

While the impression was that the U.S. Attorney in Delaware has essentially the powers of special counsel in this case, free rein to do as needed, as is clearly shown, this was not the case. The U.S. Attorney in Delaware in our investigation was constantly hamstrung, limited, and marginalized by DOJ officials as well as other U.S. Attorneys. I still view that a special counsel for this case would have cut through the toughest problems that continues to make problems for this case.

I would ask Congress and the administration, after reviewing the facts, to consider a special counsel for this case as well as consider the appropriateness of this special counsel taking under their authority all the related cases and spin-off investigations that have come forward from this investigation, related cases that I believe are subject to the same problems and difficulties we had.

Lastly, I would encourage Congress and the administration to consider establishing an official channel for Federal investigators to pull the emergency cord and raise the issue of the appointment of a special counsel for consideration by your senior officials. I do not want my colleagues at the IRS, FBI, and other Federal law enforcement agencies to go through my frustrating and disheartening journey. I believe having such a path will strengthen the public's confidence in their institutions and the fair and equal treatment of the Americans under law.