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September 14, 2023

VIA ELECTRONIC MAIL

Representative James Comer
Committee on Oversight and Accountability

Representative Jim Jordan
Committee on the Judiciary

Representative Jason Smith
Committee on Ways and Means

Re: September 6, 2023 Request for Documents

Dear Chairmen Comer, Jordan, and Smith:

I write in response to your September 6, 2023, letter to me and Christopher Clark requesting various documents, most of which were exchanged between Mr. Clark either at his former law firm, Latham & Watkins LLP, or his current firm, Clark Smith Villazor LLP, and the U.S. Attorney's Office in Delaware. Your stated purpose, you claim, is your "commitment to impartial justice." (Ltr. at 1).

For months now, one or more of you, or others acting at your behest, have done everything you can to interfere with "impartial justice" and the proper workings of a criminal investigation involving our client, Robert Hunter Biden. In fact, Chairman Comer, on May 22, 2023, during an interview on *Fox News*, you actually admitted your real purpose had nothing to do with proper oversight and your Committee's goal was "absolutely" to move the needle of political support for the 2024 election.¹

Your blatant efforts achieved your goal as the U.S. Attorney in Delaware today filed gun charges against our client—charges that are unprecedented when not part of some other criminal conduct and have been found unconstitutional by a federal court of appeals—and who reversed his earlier decision that such charges were not warranted. Your improper interference now affecting a federal prosecutor is a much greater threat to society than the 11 days that Mr. Biden possessed an unloaded gun.

¹ In response to a question posed on whether the investigation had "moved this needle with the media," you stated "Absolutely. There's no question. You look at the polling, and right now Donald Trump is seven points ahead of Joe Biden and trending upward; Joe Biden's trending downward. And I believe that the media is looking around, scratching their head, and they're realizing the American people are keeping up with our investigation."

In this unprecedented display of partisan congressional manipulation, your Committees have been willing to pretend to provide a forum for real whistleblowers, when your goals were to misuse that process to dump wholesale protected tax information about Mr. Biden on the public; to give a forum for the so-called agents or their representative to violate federal laws protecting grand jury and tax information; and even to allow a purported Oversight Committee hearing to be the forum for Rep. Marjorie Taylor Greene, not to ask oversight-related questions but to display to the world tawdry naked photos of our client—conduct that is wholly inappropriate by a sitting United States congresswoman. Can you explain how all of that promotes “impartial justice?”

All your efforts to date, as you admitted, were to forward the convenient-for-your-political-purpose, but totally dishonest, claim that Mr. Biden was treated more favorably than others would be in similar circumstances and that he was getting a “sweetheart” deal. Your most recent letter repeated this false statement in your “serious concerns” questioning whether “the Department has handled a case involving President Biden’s son in an impartial manner that is consistent with other prosecutions.” (Ltr. at 1).

So, there can be no real confusion about your improper purpose. Even though your stated agenda is not as you claim, we *actually agree* that the “Department has [not] handled a case involving the President’s son in an impartial manner.” It is not that Mr. Biden was given a “sweetheart deal.” Just the opposite: Mr. Biden was and will be charged for conduct no one else would be charged for because, as the President’s son, he has been subject to your relentless efforts to inject partisan Republican politics into the process.

Ironically, then, your requests actually provide a vehicle to demonstrate the truth, show how completely wrong your claims of preferential treatment have been, display how differently and unfairly Mr. Biden has been treated, and expose how you and your Committees’ efforts achieved your improper goal of interfering with the correct outcome of a thorough five-year investigation.

Thus, without accepting your premise that any attorney provided any of this information to any media or that your goals are to do something in the public interest in a legitimate exercise of congressional authority, and with the agreement of our client and his former counsel, we provide you with the following:

1. Communications and documents in our possession responsive to your requests;
2. Additional communications between Mr. Biden’s counsel and the U.S. Attorney’s Office in Delaware; and
3. Several letters written to the U.S. Attorney’s Office in Delaware regarding breaches of protected, confidential grand jury and tax information under Federal Rule of Criminal Procedure 6(e) and 26 U.S.C. § 610.

In addition to what you requested and your September 12, 2023, letter to Attorney General Garland, in # 3 above, we are including an August 14, 2023, letter from Mr. Biden's counsel to the U.S. Attorney in Delaware. That letter compiles the literally dozens of improper disclosures of protected and confidential grand jury and tax information by the IRS agents assigned (and some unnamed sources) during the investigation. If your intent is honestly to ensure "impartial justice," this list of potential and actual misconduct should give all of you and your Committees something real to investigate. We will be watching to see if in fact you do.

Knowing that your practice has been to *publicly* disclose materials provided to you in your so-called oversight (either through your favorite media outlets or by simply dumping them on your websites), and often doing so on a selective, self-serving basis, we are also making these materials available to the public. You will no doubt try to spin, explain, or mischaracterize the documents, and their contents, but any person without a political agenda reviewing these documents will readily see the following:

1. For almost five years, U.S. Attorney Weiss and his staff conducted a wide-ranging investigation that included all Mr. Biden's work—domestic and international. Documents subpoenaed or obtained by warrants and individuals interviewed or from whom testimony was solicited demonstrate the breadth and depth of the investigation.
2. As part of the investigation, Mr. Biden's counsel provided extensive material and made several presentations that showed various allegations—from tax evasion to a knowing gun violation—had no basis for charges based on the facts and law. Specifically, not only was there no evidence of willful tax violations, but any questions also (some misunderstood or misstated by the so-called "whistleblowers" you have adopted) were explained by mistakes that millions of taxpayers and their tax preparers often make. In addition, some years (e.g., 2018) where there were tax questions involved years in which Mr. Biden did not owe any taxes because he had overpaid the taxes due. With respect to the gun charges filed today, the record is uncontradicted that the U.S. Attorney's Office has *never* brought the type of stand-alone charge being contemplated now. Instead, such gun felonies were brought when there was a use of such a gun in a crime, a "straw" purchase for another buyer, multiple gun purchases, or possession by a convicted felon. None of those factors apply to Mr. Biden.
3. The idea to create a non-litigated resolution of the investigation was made by the U.S. Attorney's Office and the initial proposal discussed was for a *complete non-prosecution agreement*. The change to a rare misdemeanor failure to file/pay and a felony diversion for possession of a firearm (and now the actual filing of those firearm charges) occurred only *after* a chain of events starting with the improper disclosures arranged by you and your Committees of the so-called "whistleblowers" claims of prosecutorial misconduct and your, and the right-wing media with whom you coordinate, taking up those claims. A better example of improper political interference is hard to come by and reveals the opposite of your claim of partiality; it shows that Mr. Biden, with your considered efforts, was treated far more severely than others committing his same conduct and far more severely than the U.S. Attorney thought was appropriate after five years of investigation.

4. Not content with the damage you did in having the U.S. Attorney reverse his offer and decision in May 2023, you have continued your barrage to make him even further afraid to administer proper justice. On July 25, 2023, Chairman Smith even went so far as to write to the federal judge in this matter to request that she consider at Mr. Biden's initial appearance and plea hearing the fruits of the theater you created with your so-called "whistleblowers." Following the July 26 statement by the U.S. Attorney (incorrect as it turns out) that there was no agreement between his Office and Mr. Biden, you have turned up the political heat on him, resulting in his apparent attempt to prove his "impartiality" now by bringing enhanced charges that are not supported by his five-year investigation nor his idea of a proper resolution before your efforts. Each of you seem intent on continuing the pressure on him by calling for documents and communications relating to U.S. Attorney Weiss on August 28, as well as demanding testimony from U.S. Attorney Weiss and eight other Justice Department officials (including the U.S. Attorneys in Washington, D.C. and Los Angeles, California) on June 29, your September 6 letter aiming your latest efforts at Mr. Biden's defense counsel, and your September 12 letter to Attorney General Garland seeking some of the same information.

As to that last effort aimed at us, thank you. You may not have intended it, but your demands provide the appropriate procedure to expose the truth of what happened—the thoroughness of the government's investigation, the lack of any factual or legal basis to support any charges beyond the failure to timely file misdemeanors that had been agreed upon, the correct non-charging resolution first discussed, the unexpected change brought about by the partisan political pressure you all aimed at the U.S. Attorney, and now what the Special Counsel will do to attempt to show (despite the record now revealed) that he is not buckling to politics.

Sincerely,



Abbe David Lowell

Counsel for Robert Hunter Biden

cc: Representative Jerrold L. Nadler, Ranking Member, Committee on the Judiciary
Representative Richard E. Neal, Ranking Member, Committee on Ways and Means
Representative Jamie Raskin, Ranking Member, Committee on Oversight and
Accountability