



U.S. House of Representatives

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

August 21, 2023

Darrell J. Waldon
Special Agent in Charge
Internal Revenue Service
1111 Constitution Avenue, NW
Washington, DC 20224

Dear Mr. Waldon:

In the wake of testimony from brave Internal Revenue Service (IRS) whistleblowers about special treatment for Hunter Biden during the course of a criminal investigation, multiple congressional committees are conducting oversight of the Executive Branch's commitment to impartial justice, as well as investigating the veracity of statements made in response to congressional inquiries. As part of this oversight, on June 29, 2023, the Committees on Ways and Means, Judiciary, and Oversight and Accountability requested that the IRS make you and another IRS official available for transcribed interviews before the Committee on Ways and Means.¹ The Committees requested the interview with you because you have been identified as someone who was present at, and therefore has direct knowledge of, a key meeting on October 7, 2022, in which updates about the Hunter Biden investigation were discussed.²

To date, the IRS has refused to voluntarily cooperate with the pending request for a transcribed interview with you. Therefore, please find attached a subpoena compelling you to sit for a deposition before the Committee on Ways and Means. This subpoena is being issued pursuant to House Rule XI.2(m), and pursuant to the Committees' ongoing investigation into the aforementioned matter. The details surrounding the IRS's refusal to cooperate with our request are outlined below.

The IRS responded to the Committees' June 29 letter on July 13, stating that it "will await the outcome of your discussions with [the Department of Justice (DOJ)] before authorizing any testimony (or providing substantive information by other means) regarding pending litigation or any investigations overseen by DOJ."³ The IRS's July 13 response letter also raises

¹ Letter from Chairmen Jim Jordan, Jason Smith, and James Comer, to Daniel Werfel, Commissioner, Internal Revenue Service (June 29, 2023).

² See Transcribed Interview of Gary A. Shapley, Jr., Supervisory Special Agent, Internal Revenue Serv. (May 26, 2023).

³ Letter from Daniel Werfel, Commissioner of Internal Revenue Service, to The Hon. Jason Smith, Chairman, H. Comm. on Ways and Means (July 13, 2023).

the notion of “legal restrictions on the information that [its] employees may provide regarding specific enforcement activity, including criminal investigations.”⁴ Yet, the July 13 response does not cite a single legal provision nor does it explain how Congress’s oversight authority can be limited by any such legal restrictions.

Thus, the IRS’s July 13 response letter appears to have adopted the several rationales for why DOJ would not immediately comply with the Committees’ request for transcribed interviews with DOJ officials.⁵ In response, the Committees sent a letter to the IRS on July 21, that addressed those reasons and reiterated our request for the IRS’s voluntary cooperation with the pending request for transcribed interviews with you and the other official listed in our June 29 letters. The July 21 letter to the IRS requested that the IRS contact the Committee on Ways and Means majority staff as soon as possible to schedule these transcribed interviews. The letter noted that absent cooperation with the request, the Committee on Ways and Means would issue subpoenas to obtain the required testimony. The IRS responded to the Committees’ July 21 letter on July 24, but did not agree to schedule the requested interviews.

Then, on July 26, Judge Maryellen Noreika of the U.S. District Court for the District of Delaware declined to accept DOJ’s unusual plea and pretrial diversion agreements with Hunter Biden.⁶ Subsequently, DOJ moved to withdraw the criminal information filed before the District Court in Delaware, stating that plea negotiations were “at an impasse.”⁷ DOJ’s filings came shortly after Attorney General Merrick Garland named U.S. Attorney David Weiss as special counsel.⁸ Although both Attorney General Garland and U.S. Attorney Weiss have stated that U.S. Attorney Weiss had “ultimate authority” over the investigation and prosecution of Hunter Biden, nearly five years after the investigation into Hunter Biden was first opened the Attorney General now asserts that special counsel status is necessary to pursue the case.⁹ The timing of this decision to appoint U.S. Attorney Weiss as a special counsel also comes after whistleblowers have raised serious and unchallenged allegations of impropriety in the investigation of Hunter Biden.¹⁰

⁴ *Id.*

⁵ Letter from Carlos Felipe Uriarte, Assistant Att’y Gen., U.S. Dep’t of Just., to The Hon. Jim Jordan, Chairman, H. Comm. on the Judiciary (July 13, 2021).

⁶ Transcript of Record at 108, *U.S. v. Robert Hunter Biden*, No. 23-mj-274-MN, No. 23-cr-61-MN (D. Del. July 26, 2023). *See also*, Glenn Thrush and Michael S. Schmidt, *Judge delays Hunter Biden plea deal*, N.Y. TIMES (July 26, 2023); Perry Stein, Karl Baker, Devlin Barrett, and Matt Viser, *Judge puts Hunter Biden guilty plea on hold for now*, WASH. POST (July 26, 2023); Phil McCausland and Tom Winter, *Hunter Biden pleads not guilty after plea deal is derailed*, NBC NEWS (July 26, 2023).

⁷ U.S. Motion to Voluntarily Dismiss Criminal Tax Information Without Prejudice so that Tax Charges Can Be Brought in a District Where Venue Lies, *U.S. v. Robert Hunter Biden*, No. 23-mj-274-MN, No. 23-cr-61-MN (D. Del. Aug. 11, 2023) [hereinafter U.S. Motion to Voluntarily Dismiss]. *See also*, Kaelan Deese, *Hunter Biden investigation: Prosecutors are at ‘impasse’ on plea and expect a trial*, WASH. EXAMINER (Aug. 11, 2023).

⁸ Off. of the Att’y Gen., Order No. 5730-2023, Appointment of David C. Weiss as Special Counsel (2023). *See also*, Kaelan Deese, *Hunter Biden investigation: Prosecutors are at ‘impasse’ on plea and expect a trial*, WASH. EXAMINER (Aug. 11, 2023).

⁹ *Id.*

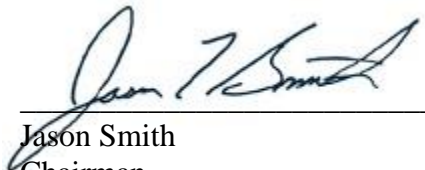
¹⁰ *Id.*

Of note, the whistleblowers testified to and provided supporting documents regarding an October 7, 2022 meeting in which U.S. Attorney Weiss stated that he is not the deciding person on whether charges are filed.¹¹ The recent decision to grant U.S. Attorney Weiss special counsel status, especially in light of the whistleblowers' testimony, U.S. Attorney Weiss' handling of the case to date, and his inconsistent statements to Congress about his authority raises serious questions about the handling of this investigation, and reinforces the Committee's need to speak with individuals with knowledge of the investigation.

Based on information provided by whistleblowers and made available to the Committee, you have unique information that is relevant and necessary to inform our oversight and potential legislative reforms.¹² For example, the whistleblowers allege politicization and misconduct with respect to the investigation of Hunter Biden. Specifically, the Committee is examining claims that the investigation was purposely slow-walked and subjected to improper and politically motivated interference.¹³ You were part of the chain of command for these whistleblowers and received an email from Supervisory Special Agent Gary Shapley in which he detailed a key prosecution team meeting on October 7, 2022.¹⁴ What Supervisory Special Agent Shapley detailed in that email is an essential piece of our investigation. Your testimony about these subjects is necessary for the Committee to advance its ongoing investigation. The Committee has sought to obtain the IRS's voluntary compliance with our request to conduct a transcribed interview of you and has engaged in good faith with the agency to address the purported reasons why it could not comply. Nevertheless, the agency has still has not agreed to make you available.

Because the IRS has failed to comply voluntarily with these requests, please find attached a subpoena compelling your appearance at a deposition.

Sincerely,

A handwritten signature in black ink, appearing to read "Jason Smith", is written over a horizontal line.

Jason Smith
Chairman
Committee on Ways and Means

¹¹ See Transcribed Interview of Gary A. Shapley, Jr., Supervisory Special Agent, Internal Revenue Serv. (May 26, 2023); Transcribed Interview of [Redacted], Special Agent, Internal Revenue Serv. (June 1, 2023).

¹² See Transcribed Interview of Gary A. Shapley, Jr., Supervisory Special Agent, Internal Revenue Serv. (May 26, 2023); Transcribed Interview of [Redacted], Special Agent, Internal Revenue Serv. (June 1, 2023).

¹³ *Id.*

¹⁴ See Transcribed Interview of Gary A. Shapley, Jr., Supervisory Special Agent, Internal Revenue Serv. (May 26, 2023) at Ex. 10.