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July 25, 2023

By ECF

The Honorable Maryellen Noreika, U.S.D.J.
United States District Court
for the District of Delaware
J. Caleb Boggs Federal Building
844 N. King Street
Unit 19, Room 4324
Wilmington, DE 19801

Re: *United States of America v. Robert Hunter Biden,*
Criminal Action No. 23-mj-00274-MN

Dear Judge Noreika:

Our firm represents the Honorable Jason Smith, Member of Congress and Chair of the U.S. House of Representatives Ways and Means Committee. This morning, our firm filed Chairman Smith's Motion for Leave to File *Amicus Curiae* Brief in Aid of Plea Hearing together with the proposed *Amicus Curiae* Brief. We received an email from counsel for Defendant Robert Hunter Biden advising us that the materials that we filed—which are publicly available—violated the Court's rules because it contained “grand jury and confidential tax payer information.” *See* Ex. A at 6. Defendants' counsel did not provide any details regarding which materials should have been filed under seal.

We responded that this filing included only documents which had been made publicly available on the House Ways and Means Committee's website: <https://waysandmeans.house.gov/event/meeting-on-documents-protected-under-internal-revenue-code-section-6103/>. *See* Ex. A at 5. The exhibits that were filed have been public since June 22, 2023, following an approved vote of the House Ways and Means Committee. Moreover, the documents that were made public were redacted by both counsel for the minority and the majority members of the Ways and Means Committee. Counsel for Defendant, Christopher Clark, Esq., advised that he would be moving to seal the record. *See* Ex. A at 4.

The Honorable Maryellen Noreika
U.S.D.J.
July 25, 2023
Page 2

Following this exchange, at approximately 1:30 p.m., we received word that our filing was removed from the docket. We promptly contacted the Clerk's office, and we were advised that someone contacted the Court representing that they worked with *my office* and that they were asking the Court to remove this from the docket. We immediately advised that this was inaccurate. The Clerk's Office responded that we would need to re-file. We have done so now. *See* D.I. 7.

I advised opposing counsel that we were deeply concerned by this conduct. *See* Ex. A at 2-3. Opposing counsel admitted that they had contacted the Court, but argued that they had done nothing improper. In further response, Mr. Clark stated, "I stand by all my statements and I hope you have an affidavit from the clerk in support of yours." *See* Ex. A at 1. Attached as Ex. B, please find an email from the Clerk's office supporting the statements.

If Mr. Clark or other counsel wants to move to seal publicly available documents, he should do so by way of motion and we will respond accordingly.

We remain available at the convenience of the Court if there are any questions.

Respectfully submitted,

/s/ Theodore A. Kittila (DE Bar No. 3963)

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*Counsel for Amicus Curiae the Honorable Jason
Smith, Member of the U.S. House of Representatives
and Chair of the U.S. House of Representatives
Committee on Ways and Means*

Enclosures

cc: Counsel of Record