



Theodore A. Kittila
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5801 Kennett Pike, Suite C/D
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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)

Theodore A. Kittila, Attorney at Law
Halloran Farkas + Kittila LLP

*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

EXHIBIT A

Theodore Kittila

From: Christopher Clark <clark@csvllp.com>
Sent: Tuesday, July 25, 2023 2:18 PM
To: Theodore Kittila
Cc: William E. Green; Richie Jones; matthew.salerno@lw.com; Timothy.McCarten@lw.com; Brian.McManus@lw.com; Jessica.Bengels@lw.com
Subject: Re: [EXTERNAL EMAIL] E-Filing in USA v. Biden, 23-mj-274

Ted,

I stand by all of my statements and I hope you have an affidavit from the clerk in support of yours.

Chris

Christopher Clark
Partner
Clark Smith Villazor LLP
250 West 55th Street, 30th Floor
New York, New York 10019
O:212-582-4400 **D:**212-377-0853 **M:**646-763-3225

From: Theodore Kittila <tk@hfk.law>
Sent: Tuesday, July 25, 2023 2:15:49 PM
To: Christopher Clark <clark@csvllp.com>
Cc: William E. Green <wg@hfk.law>; Richie Jones <rjones@bergerharris.com>; matthew.salerno@lw.com <matthew.salerno@lw.com>; Timothy.McCarten@lw.com <Timothy.McCarten@lw.com>; Brian.McManus@lw.com <Brian.McManus@lw.com>; Jessica.Bengels@lw.com <Jessica.Bengels@lw.com>
Subject: RE: [EXTERNAL EMAIL] E-Filing in USA v. Biden, 23-mj-274

Chris –

You should probably take a step back from your statements. The clerk's office advised that it was represented to her that the request was being made by my firm. We will be advising Judge Noreika of this improper conduct.

Very truly yours,
Ted

Theodore A. Kittila
Managing Partner



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From: Christopher Clark [mailto:clark@csvllp.com]
Sent: Tuesday, July 25, 2023 2:13 PM
To: Theodore Kittila <tk@hfk.law>
Cc: William E. Green <wg@hfk.law>; Richie Jones <rjones@bergerharris.com>; matthew.salerno@lw.com;
Timothy.McCarten@lw.com; Brian.McManus@lw.com; Jessica.Bengels@lw.com
Subject: Re: [EXTERNAL EMAIL] E-Filing in USA v. Biden, 23-mj-274

Ted,

Your email is inaccurate. As far as I am aware, the managing attorney from Latham called the clerk's office to note that personal tax information of the defendant had been filed in a non reacted manner and to inquire regarding having the information sealed, as we told you we would and as you said you understood. As far as I am aware the clerk took the filing down on their own accord.

Your attempts to publicly file my client's personal financial information with no protection is are improper, illegal and in violation of applicable rules. Please follow the rules in making your non-party and non-approved filings. We will seek all appropriate sanctions in response to your actions.

Best,

Chris

Christopher Clark
Partner
Clark Smith Villazor LLP
250 West 55th Street, 30th Floor
New York, New York 10019
O:212-582-4400 D:212-377-0853 M:646-763-3225

From: Theodore Kittila <tk@hfk.law>
Sent: Tuesday, July 25, 2023 1:59:15 PM
To: Christopher Clark <clark@csvllp.com>
Cc: William E. Green <wg@hfk.law>; Richie Jones <rjones@bergerharris.com>; matthew.salerno@lw.com
<matthew.salerno@lw.com>; Timothy.McCarten@lw.com <Timothy.McCarten@lw.com>; Brian.McManus@lw.com
<Brian.McManus@lw.com>; Jessica.Bengels@lw.com <Jessica.Bengels@lw.com>
Subject: RE: [EXTERNAL EMAIL] E-Filing in USA v. Biden, 23-mj-274

Counsel:

Someone from your side unilaterally contacted the Court and had our filing taken down. It was represented to the Court that there were “social security numbers” in the filing. The clerk was also under the impression that this was my firm’s paralegal that did this. This is not accurate, and the Clerk’s office has been made aware of this.

We ask that you immediately provide your basis for what you claim should not have been publicly filed, as we believe that this was improper. If you want to move for a protective order, you must move for one.

Very truly yours,
Ted

Theodore A. Kittila
Managing Partner



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From: Theodore Kittila
Sent: Tuesday, July 25, 2023 12:21 PM
To: Christopher Clark <clark@csvllp.com>
Cc: William E. Green <wg@hfk.law>; Richie Jones <rjones@bergerharris.com>; matthew.salerno@lw.com;
Timothy.McCarten@lw.com; Brian.McManus@lw.com; Jessica.Bengels@lw.com
Subject: Re: [EXTERNAL EMAIL] E-Filing in USA v. Biden, 23-mj-274

We understand Chris.

Best regards,
Ted

Theodore A. Kittila
Managing Partner
Halloran Farkas + Kittila LLP

p [302-257-2025](tel:302-257-2025)

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Sent from my iPhone

On Jul 25, 2023, at 12:18 PM, Christopher Clark <clark@csvllp.com> wrote:

We will be moving to seal the filing and we reserve all rights.

Christopher Clark
Partner
Clark Smith Villazor LLP
250 West 55th Street, 30th Floor
New York, New York 10019
O:212-582-4400 D:212-377-0853 M:646-763-3225

From: William E. Green <wg@hfk.law>
Sent: Tuesday, July 25, 2023 12:16:40 PM
To: Christopher Clark <clark@csvllp.com>; Richie Jones <rjones@bergerharris.com>; Theodore Kittila <tk@hfk.law>
Cc: matthew.salerno@lw.com <matthew.salerno@lw.com>; Timothy.McCarten@lw.com <Timothy.McCarten@lw.com>; Brian.McManus@lw.com <Brian.McManus@lw.com>; Jessica.Bengels@lw.com <Jessica.Bengels@lw.com>
Subject: RE: [EXTERNAL EMAIL] E-Filing in USA v. Biden, 23-mj-274

We will not be filing under seal. All of the tax payer information was made public through a Committee vote and has been available to the public since June 22, 2023.

William E. Green, Jr.
Partner
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From: Christopher Clark <clark@csvllp.com>
Sent: Tuesday, July 25, 2023 12:12 PM
To: William E. Green <wg@hfk.law>; Richie Jones <rjones@bergerharris.com>; Theodore Kittila <tk@hfk.law>
Cc: matthew.salerno@lw.com; Timothy.McCarten@lw.com; Brian.McManus@lw.com; Jessica.Bengels@lw.com
Subject: Re: [EXTERNAL EMAIL] E-Filing in USA v. Biden, 23-mj-274

So are you declining to file it under seal, please answer directly.

Christopher Clark
Partner
Clark Smith Villazor LLP
250 West 55th Street, 30th Floor
New York, New York 10019
O:212-582-4400 D:212-377-0853 M:646-763-3225

From: William E. Green <wg@hfk.law>
Sent: Tuesday, July 25, 2023 11:52:07 AM
To: Richie Jones <rjones@bergerharris.com>; Theodore Kittila <tk@hfk.law>
Cc: Christopher Clark <clark@csvllp.com>; matthew.salerno@lw.com <matthew.salerno@lw.com>; Timothy.McCarten@lw.com <Timothy.McCarten@lw.com>; Brian.McManus@lw.com <Brian.McManus@lw.com>; Jessica.Bengels@lw.com <Jessica.Bengels@lw.com>
Subject: RE: [EXTERNAL EMAIL] E-Filing in USA v. Biden, 23-mj-274

All of the information in the filing is publicly available and is hosted at the Ways and Means Committee's website. <https://waysandmeans.house.gov/event/meeting-on-documents-protected-under-internal-revenue-code-section-6103/>

William E. Green, Jr.

Partner
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From: Richie Jones <rjones@bergerharris.com>
Sent: Tuesday, July 25, 2023 11:48 AM
To: Theodore Kittila <tk@hfk.law>
Cc: William E. Green <wg@hfk.law>; Christopher Clark <clark@csvllp.com>; matthew.salerno@lw.com;
Timothy.McCarten@lw.com; Brian.McManus@lw.com; Jessica.Bengels@lw.com
Subject: RE: E-Filing in USA v. Biden, 23-mj-274
Importance: High

Ted:

Portions of your below-attached filing by the House Ways and Means Committee Member contain grand jury and confidential tax payer information that must be sealed immediately. Please contact the Court immediately and pull the filing pending a sealed filing. We will notify you in short order which portions of the filing should remain under seal.

Richie

<image002.png> **Richard I.G. Jones, Jr.**
Partner
BERGER//HARRIS LLP
302.476.8430 direct
rjones@bergerharris.com

From: Theodore Kittila <tk@hfk.law>
Sent: Tuesday, July 25, 2023 10:33 AM
To: Richie Jones <rjones@bergerharris.com>
Cc: William E. Green <wg@hfk.law>
Subject: E-Filing in USA v. Biden, 23-mj-274

EXTERNAL EMAIL

Richie –

As discussed, please find the filings in the above-referenced matter.

Best regards,
Ted

Theodore A. Kittila
Managing Partner
<image003.png>
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