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June 14, 2023

VIA ELECTRONIC MAIL

Representative James Comer
Chairman
Committee on Oversight and Accountability
U.S. House of Representatives
2410 Rayburn HOB
Washington, D.C. 20515

Re: May 30, 2023 Request for Documents and a Transcribed Interview from Mr. Georges Bergès

Dear Chairman Comer:

I write on behalf of our client, Robert Hunter Biden, regarding your May 30, 2023 letter to Mr. William Pittard, counsel to Mr. Georges Bergès, owner of the Georges Bergès Gallery, requesting documents and communications related to the prices, viewing, or purchase of Mr. Biden's art.¹ This request is unmistakably your latest attempt to seek the records of private individuals, but having our client's father, President Biden, as your target. As outlined by Mr. Bergès' counsel in three detailed letters,² the House Oversight and Accountability Committee remains without a legitimate legislative purpose for requesting records from Mr. Bergès and his Gallery of his interactions with Hunter Biden.³

Your requests to Mr. Bergès, a private person, concerning the affairs of our client, another private person, are beyond the Committee's investigatory scope. "[A]n investigation into individual affairs is invalid if unrelated to any legislative purpose. That is beyond the powers conferred upon the Congress in the Constitution." *Watkins v. United States*, 354 U.S. 178, 198 (1957) (citing *Kilbourn v. Thompson*, 103 U.S. 168, 195 (1880)). "[T]here is no congressional

¹ Letter from Chairman of the H. Comm. on Oversight and Accountability James Comer to William Pittard, counsel to Georges Bergès and the Georges Bergès Galleries LLC (May 30, 2023).

² Letter from William Pittard, counsel to Georges Bergès and the Georges Bergès Galleries LLC, to the Chairman of the H. Comm. on Oversight and Accountability James Comer (Feb. 6, 2023); Letter from William Pittard, counsel to Georges Bergès and the Georges Bergès Galleries LLC, to the Chairman of the H. Comm. on Oversight and Accountability James Comer (Mar. 24, 2023); Letter from William Pittard, counsel to Georges Bergès and the Georges Bergès Galleries LLC, to the Chairman of the H. Comm. on Oversight and Accountability James Comer (June 12, 2023).

³ One example of a question the Committee might pose that might (but even then possibly not) be relevant would be to confirm that there are no communications between Mr. Bergès and the President or White House. I am confident the answer would be "none," and that would end any remotely pertinent inquiry.

power to expose for the sake of exposure,” *id.* at 200, especially as related to “*the private affairs of individuals* without justification in terms of the functions of the Congress.” *Id.* at 187 (emphasis added). In fact, I am sure you will remember that it was now Judiciary Chairman Jim Jordan, in his hollering about the subpoena issued to the Presidents’ accounting firm, citing to the same *Watkins* case, who stated that private persons have a limited place in Committee investigations: “[t]he Supreme Court has cautioned that Congress does not have ‘general authority to expose the private affairs of individuals without justification in terms of the functions of the Congress.’”⁴ This could not be more the case than your seeking information from Mr. Bergès about private sales of art created by Mr. Biden and sold by Mr. Bergès.

Mr. Biden is not only a private person, but he has neither run for nor held a public office and has never been involved in any of his father’s political appointments, and, unlike the case with the last President’s family, has not been a part of the administration or a family business.

Your letter is based on a transparent sleight of hand claiming your request “is not asking Mr. Biden for documents and information,” when you are quite clearly seeking documents and information *about* Mr. Biden. Your explanation that the Committee has “serious ethics concerns” arising from Mr. Biden’s arms-length sale of his artwork through the Bergès Gallery rings hollow given your and your colleagues’ turning a blind eye to the ethics of former President Trump—who, *in office*, kept interests in hotels, golf courses, and other businesses frequented by those seeking favor from his administration, and employed family members who continued to hold their business interests while they served.

In fact, as again I pointed out in February, not only did you and your colleagues turn away from the very ethics issues you claim motivate you now, but Republicans also complained mightily when Democrats then in the majority sought to inquire into President Trump and his family’s conduct. Let me remind you what then-Ranking Member Jim Jordan stated: that a subpoena of President Trump *and his family’s* personal records was “an unprecedented abuse of the Committee’s subpoena authority[.]”⁵ (emphasis added). Mr. Jordan described the subpoena for financial and business records as an “irresponsible and gravely dangerous course of conduct in a singular obsession of attacking President Trump *and his family* for political gain.”⁶ (emphasis added). I explained in February that Mr. Jordan stated he feared that Chairman Elijah Cummings would selectively release information gained from the subpoena “in a misleading fashion to create a false narrative for partisan political gain.”⁷ If your Republican colleagues were sincere in their assertions *then*, they would ask you *now* to reconsider your request to probe into the perfectly proper dealings of Mr. Biden who is doing no more than seeking to earn a living as an artist.

⁴ Letter from Ranking Member of the H. Comm. on Oversight and Reform Jim Jordan to Chairman Elijah Cummings (Apr. 15, 2019), <https://oversight.house.gov/wp-content/uploads/2019/04/2019-04-15-JDJ-to-EEC-re-Mazars-Subpoena.pdf>.

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

Another justification you claim is equally specious. In your letter, you state that your Committee was able to obtain financial records from financial institutions demonstrating that “Biden business associates had sent over \$ 1 million originating from China to Mr. Hunter Biden.” By now, after objective media articles have debunked your claim of wrongdoing by President Biden⁸, even you must realize what a slanted and mischaracterized statement that is. However, you making that statement underscores your lack of a proper legislative purpose. No sooner did you obtain these financial records then, as admitted in your letter, you released them to the public in your “First Bank Records Memorandum.”⁹ In so doing, you decided to ignore the warning of your colleague Chairman Jordan, who cautioned that Democrats would selectively release information gained from the subpoena “in a misleading fashion to create a false narrative for partisan political gain.” Oh, what a difference a few years and a change in leadership has made.

In your letter to Mr. Bergès’ counsel, you also declare: “this request does not implicate any of the President’s financial information so the framework set forth in *Mazars* does not apply.” You and your legal advisors likely know better than to claim *Mazars* is as limited as that. What led to that decision were congressional committees seeking personal financial records of President Trump “and his family” from an accounting firm and financial institutions. See *Trump v. Mazars USA, LLP*, 140 S. Ct. 2019, 2026 (2020) (emphasis added). Your request is a congressional committee seeking personal financial records of a President’s family member as well. The limitations the Supreme Court placed on requests for personal information, including even those expressed in the dissent, apply here as well. See *id.* at 2037–47 (2020) (Thomas, J., dissenting) (stating that Congress, even if it could state it was acting as part of its legislative function, lacked the authority to compel documents from private parties); *id.* at 2048 (Alito, J., dissenting) (“Whenever such a subpoena comes before a court, Congress should be required to make more than a perfunctory showing that it is seeking the documents for a legitimate legislative purpose and not for the purpose of exposing supposed Presidential wrongdoing.”)

You present an additional transparent guise for scrutinizing the Biden family – to expose a manufactured art sales conspiracy. This too fails to articulate a proper legislative purpose as it impermissibly usurps executive and judicial powers to investigate crimes. You wish to use documents gathered from Mr. Bergès to “try” our client for some fabricated illicit monetary transaction that does not exist. Posing that it is possible that somebody in the world, who Hunter Biden and the President do not know is a purchaser, is buying a painting by our client at some inflated price (which our client does not set in any event) to somehow influence the current administration (which is unaware of the buyer) is the proverbial House of Cards. Moreover, as with the financial records you obtained and quickly released, it is the height of irony to pretend your interest is to explore whether anyone is trying to influence the administration when it will be your release of buyer information (no doubt to harass such buyers) that will be the vehicle to inform

⁸ Luke Broadwater, *House Republican Report Finds No Evidence of Wrongdoing by President Biden*, N.Y. TIMES, (May 10, 2023), <https://www.nytimes.com/2023/05/10/us/politics/hunter-biden-house-republicans-report.html>; Amber Phillips, *Breaking down the GOP investigation into the Biden family*, THE WASH. POST, (May 30, 2023), <https://www.washingtonpost.com/politics/2023/05/30/gop-investigation-hunter-biden-fbi/>.

⁹ H. Comm. on Oversight & Reform Majority Staff, *New Evidence Resulting from the Oversight Committee’s Investigation into the Biden Family’s Influence Peddling and Business Schemes* (Mar. 16, 2023), <https://oversight.house.gov/wp-content/uploads/2023/03/Bank-Records-Memo-3.16.23.pdf>.


Mr. Biden and the administration of information they do not presently have. Congress, though, is neither a “law enforcement” body nor a “trial agency” and therefore lacks jurisdiction to attempt to prosecute Mr. Biden before a Committee for your claim of some art conspiracy. *Watkins*, 354 U.S. at 187; *see also Mazars*, 140 S. Ct. at 2032 (finding that “Congress may not issue a subpoena for the purpose of law enforcement” and “may not use subpoenas to try someone before a committee”) (internal citations omitted).

In addition, your various public statements openly contradict any arguments that the House Oversight Committee is operating under a notion of legislative purpose. Instead, your letter is part of a dogged and wasteful pursuit of the Biden family. Publicly and proudly, you announced that your investigation of our client is a sickening second attempt to attack the entire Biden family after a missed opportunity to investigate the late Beau Biden years ago.¹⁰ Fortunately, actions such as yours were predicted by the Supreme Court, which held that the “mere semblance of legislative purpose would not justify an inquiry.” *Watkins*, 354 U.S. at 198. Simply put, your investigation is *not* about money-laundering through art sales. Everyone knows it because you have admitted it. Instead, it is a thinly veiled attempt to cast a large enough shadow over Mr. Biden that it harms the reputation of anyone in his circle, particularly the President of the United States and his family. This completely partisan mission is not allowed. Just ask Chairman Jordan.

Given the Committee’s inadequate basis, I ask that you reconsider your request for documents and a transcribed interview from Mr. Bergès. I have advised Mr. Bergès and his counsel that we believe your investigation lacks a proper legislative purpose and exceeds Congress’ oversight authority. If you ultimately decide to nevertheless subpoena records from Mr. Bergès, we should then discuss the process and schedule to test your assertions. *See Complaint, Trump v. Mazars USA, LLP*, 140 S. Ct. 2019 (2020) (No. 1:19-cv-01136-APM).

In my February 9 letter and in those written by Mr. Bergès’ counsel,¹¹ an offer was made to discuss any legitimate request for information you may have. That offer remains.

Sincerely,



Abbe David Lowell
Counsel for Robert Hunter Biden

¹⁰ Amy B. Wang, *White House slams ‘despicable’ suggestion Beau Biden should have been indicted*, THE WASH. POST, (Mar. 1, 2023), <https://www.washingtonpost.com/politics/2023/03/01/beau-hunter-biden-james-comer/>.

¹¹ Letter from Abbe Lowell, counsel to Robert Hunter Biden, to the Chairman of the H. Comm. on Oversight and Accountability James Comer (Feb. 9, 2023); Letter from William Pittard, counsel to Georges Bergès and the Georges Bergès Galleries LLC, to the Chairman of the H. Comm. on Oversight and Accountability James Comer (Feb. 6, 2023); Letter from William Pittard, counsel to Georges Bergès and the Georges Bergès Galleries LLC, to the Chairman of the H. Comm. on Oversight and Accountability James Comer (Mar. 24, 2023); Letter from William Pittard, counsel to Georges Bergès and the Georges Bergès Galleries LLC, to the Chairman of the H. Comm. on Oversight and Accountability James Comer (June 12, 2023).

cc: Hon. Jamie B. Raskin, Ranking Member, House Committee on Oversight and
Accountability
William Pittard, Esq. (KaiserDillon PLLC)