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13 **UNITED STATES DISTRICT COURT**
14 **CENTRAL DISTRICT OF CALIFORNIA**
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16 UNITED STATES OF AMERICA,

17 Plaintiff,

18 vs.

19 ROBERT HUNTER BIDEN,

20 Defendant.
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Case No. 2:23-cr-00599-MCS-1

Hon. Mark C. Scarsi

**DECLARATION OF ABBE DAVID
LOWELL IN SUPPORT OF
DEFENDANT’S REPLY IN SUPPORT
OF HIS MOTION TO DISMISS FOR
SELECTIVE AND VINDICTIVE
PROSECUTION AND BREACH OF
SEPARATION OF POWERS**

Hearing Date: March 27, 2024
Time: 1:00 PM
Place: Courtroom 7C

DECLARATION OF ABBE DAVID LOWELL

I, Abbe David Lowell, declare as follows:

1. I am a partner at Winston & Strawn LLP and am an attorney of record for Defendant Robert Hunter Biden in the above-captioned case. I have personal knowledge of the matters contained in this declaration and, if called as a witness to testify, I could and would competently testify to them. This declaration is offered in support of Defendant’s reply in support of his motion to dismiss the indictment for selective and vindictive prosecution and breach of separation of powers.

2. I am a member in good standing of the Bars of the District of Columbia, the state of Maryland, and the state of New York. I was admitted pro hac vice in this Court on January 2, 2024. (ECF 10)

3. On August 29, 2023 at approximately 11:00 AM, I (along with my law partner, Christopher Man) met with Assistant United States Attorneys Leo Wise and Derek Hines at the U.S. Attorney’s Office in Wilmington, Delaware. The meeting lasted approximately one hour. Our position was that the Diversion Agreement was in effect, and we sought to work with the government to effectuate the substance of the proposed Plea Agreement by addressing the procedural concerns the Delaware court raised on July 26, 2023.

4. During that meeting, Mr. Wise stated, in sum and substance, that DOJ was no longer willing at this point in time to (i) carry out the misdemeanor tax agreement it had made; (ii) commit to a “no jail” recommendation for Mr. Biden that it also had made; and (iii) maintain the parties’ agreed-to immunity provision. While Mr. Wise said he was only in a “listening mode,” the only type of charge even mentioned at the meeting were felonies, which are exactly what the Office filed about two weeks later in the District of Delaware.

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5. During that meeting, Mr. Wise stated that at this time, DOJ was not prepared to make Mr. Biden another offer or proposal regarding resolution of the investigation. Mr. Wise further stated that DOJ’s investigation into Mr. Biden remained ongoing.

6. Attached as **Exhibit A** is a chronology of certain events and negotiations that took place between Mr. Biden’s counsel and DOJ following the July 26, 2023 plea hearing through this August 29, 2023 meeting in Wilmington, Delaware.

7. Attached as **Exhibit B** is a true and correct copy of a letter from Mr. Biden’s counsel to Mr. Wise and Mr. Hines, dated August 7, 2023, which is referenced in the negotiation chronology described as Exhibit A.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on this 18th day of March, 2024 at Washington, DC.

Respectfully submitted,
/s/ Abbe David Lowell
ABBE DAVID LOWELL