

EMPOWER OVERSIGHT

Whistleblowers & Research



February 4, 2025

The Honorable Charles E. Grassley, Chairman
Committee on the Judiciary
United States Senate
Washington, DC

RE: OSC FINDING AGAINST IRS IN HUNTER BIDEN WHISTLEBLOWER CASE

Dear Chairman Grassley:

On May 17, 2023—*20 months ago*—Empower Oversight filed a whistleblower retaliation complaint with the U.S. Office of Special Counsel (“OSC”) on behalf of IRS Supervisory Special (“SSA”) Agent Gary Shapley.¹ IRS Special Agent (“SA”) Joseph Ziegler also filed a similar complaint. These career law enforcement officers alleged that the IRS improperly removed them from the Hunter Biden investigation in retaliation for their protected whistleblower disclosures. The removal also extended to the entire IRS International Tax and Financial Crimes (“ITFC”) group led by SSA Shapley, including case agent SA Ziegler.

At long last, the career nonpartisan staff at OSC responsible for investigating whistleblower retaliation has finally reached some conclusions. OSC confirmed in a December 30, 2024 email to counsel for the whistleblowers that it found the IRS issued illegal gag orders and improperly removed them from the Hunter Biden investigation as reprisal for their protected disclosures.²

¹ Empower Oversight Letter to the U.S. Office of Special Counsel (May 17, 2023), <https://empowr.us/wp-content/uploads/2025/01/2023-05-17-Shapley-PPP-complaint.pdf>.

² OSC Email to Counsel (Dec. 30, 2024) (“[W]e believe certain IRS communications violated 5 U.S.C. § 2302(b)(13). In addition, at this point, we believe IRS cannot support Mr. Shapley’s removal the criminal investigation of a high-profile subject.”); *see also*, Joint Counsel Letter to Congress (May 22, 2023), <https://empowr.us/wp-content/uploads/2024/04/2023-05-22-Letter-to-Congress-re-retaliation.pdf> (at Attachment 2, reporting directives senior executives sent to more than 100,000 IRS employees that OSC later found violated [5 U.S.C. § 2302\(b\)\(13\)](#) by trying to silence and intimidate IRS employees from exercising their right to lawfully blow the whistle to Congress).

These substantiated prohibited personal practices (“PPP”) are illegal—just as Shapley and Ziegler alleged 20 months ago. Yet no one at the IRS or Department of Justice (“DOJ”) has been held accountable for the retaliation. OSC had indicated that its PPP report would be complete by the end of January. However, OSC has not provided a copy of that report to the whistleblowers and, under its procedures, will not be doing so.

Ongoing Retaliation

Meanwhile, SSA Shapley and SA Zeigler still endure ongoing retaliation every day. Since SSA Shapley became a whistleblower, the IRS has also bypassed him for numerous promotions even though he demonstrated the leadership, knowledge, and competence required for the jobs. Other retaliation ranges from job duties substantially changed to minor but pervasive issues like being unreasonably scrutinized, isolated, and subjected to new requirements to obtain approvals necessary to function on everything from major case decisions to basic issues like travel authorizations.

As recently as January 2025, IRS management secretly backdated a request from SSA Shapley related to an ongoing law enforcement operation, apparently to hide management’s unusual delays and create the false impression that SSA Shapley’s request was last-minute rather than having been submitted a month earlier.

These career law enforcement professionals are being handcuffed, disrespected, and mistreated by supervisors in ways that are the polar opposite of how they were treated before making protected whistleblower disclosures. Both SSA Shapley and SA Zeigler are high performers in IRS Criminal Investigations (“CI”). The elite ITFC group SSA Shapley runs is responsible for some of the most significant, most consequential cases worked by IRS CI.³

Far from facing retaliation, these two are the sort of government employees who should be rewarded for their accomplishments and hard work with promotions to more senior leadership positions. Those who retaliated against them should be held accountable as required by the law, at a bare minimum.⁴ Accountability could be swifter and more comprehensive through proactive management decisions within the discretion of new leadership at the IRS. Unfortunately, there is no new leadership at the IRS yet.

Stop the Retaliators While Rewarding Performance and Integrity

Over the last two years, SSA Shapley and SA Zeigler have told the truth to the proper authorities in the proper way, as is their duty. They withstood intense public scrutiny, examination, and cross-examination. The press, Congress, and the courts have found nothing they said or did inaccurate or improper. Yet, they are still suffering the consequences of blowing the whistle.

³ Gary A. Shapley Jr. Biography, U.S. House of Representatives, <https://www.congress.gov/118/meeting/house/116254/witnesses/HHRG-118-GO00-Bio-ShapleyG-20230719.pdf>

⁴ See [5 USC § 7515](#).

This system of whistleblower protections is utterly broken. These dedicated public servants have done everything by the book, consistent with their oaths to uphold the law. Yet, they have been left twisting in the wind at the mercies of those who retaliated against them, waiting endlessly for administrative and legal processes that should have vindicated them long ago.

If real corrective action is not taken soon, the message to future whistleblowers will be crystal clear: keep your mouth shut. If IRS senior management can bully and ruin the careers of these public servants with no consequence for the retaliators and no meaningful remedy for the whistleblowers, no one will ever speak up again.

These public servants stand ready to serve. They understand in great detail how the IRS needs to be reformed and modernized to ensure that it treats every American equally and fairly once again. Nothing would send a stronger message that transformational change is coming than the new Administration's swift action to hold the retaliators accountable and elevate these brave whistleblowers to senior leadership positions where they can help restore the public's trust.

For decades, you have urged every President of the United States to hold a Rose Garden ceremony to honor and celebrate whistleblowers. Please consider asking this President to go a step further and actually elevate whistleblowers who have demonstrated outstanding performance and integrity to positions of authority to help reform their agencies.

Cordially,
[/Tristan Leavitt/](#)
Tristan Leavitt
President

CC: The Honorable Richard J. Durbin, Ranking Member
U.S. Senate Committee on the Judiciary

The Honorable Mike Crapo, Chairman
The Honorable Ron Wyden, Ranking Member
U.S. Senate Committee on Finance

The Honorable Jim Jordan, Chairman
The Honorable Jamie Raskin, Ranking Member
U.S. House of Representatives, Committee on the Judiciary

The Honorable Jason Smith, Chairman
The Honorable Richard Neal, Ranking Member
U.S. House of Representatives, Committee on Ways & Means

The Honorable James Comer, Chairman
The Honorable Gerald Connolly, Ranking Member
U.S. House of Representatives, Committee on Oversight and Accountability