

# “NEFARIOUS”: CHUCK GRASSLEY PANICS AT POSSIBILITY THAT GARY SHAPLEY’S ALLEGATIONS MIGHT BE SCRUTINIZED

Chuck Grassley continues, with the desperation and recklessness that may come from being the oldest member of Congress, to try to find *something* scandalous in the Hunter Biden investigation that won’t fizzle upon closer scrutiny.



I’m not sure precisely what the first complaint is about. Since Kenneth Polite resigned as Assistant Attorney General for the Criminal Division in July, Nicole Argentieri has been Acting Assistant Attorney General at the Criminal Division. Before that she had been Polite’s Principal Deputy. Prior to returning to DOJ (she worked for a time as an AUSA in EDNY), she was a partner at O’Melveny & Myers in New York. I’m not sure if that’s what Grassley is complaining about. In any case, since David Weiss is Special Counsel, it wouldn’t matter, as AAG CRM would have little to no involvement.

Grassley’s other complaint is that Hampton Dellinger, current AAG for Legal Policy, just got nominated to be the *other* kind of Special Counsel, the guy in charge of Whistleblower Protection Act and Hatch Act violations. Almost a decade ago, both Dellinger and Hunter Biden had ties to Boies Schiller. Dellinger and Hunter

attended the same dinner in March 2014.

The Office of Special Counsel would have even less role in overseeing Special Counsel David Weiss' activities than Argentieri would. He would, however, have a role in deciding whether Gary Shapely was really a whistleblower or was, instead, a partisan leaker, leaking protected IRS and grand jury information. He would have a role in reviewing whatever it is that Shapely was hiding when he refused to turn over his emails in March 2022 and tried to hide in October 2022, as concerns about leaks accelerated. He would have a role in deciding whether those things undercut his claims, now, to be a whistleblower using the proper channels.

That is, Grassley isn't worried about the prosecution of Hunter Biden with his latest complaint. He's worried about any scrutiny of Gary Shapley (and Joseph Ziegler).

And that's why I find the following details interesting.

In a September 3, 2020 email, Joseph Ziegler included the investigation into Hunter Biden – pursued by Chuck Grassley and Ron Johnson – in his agenda for a meeting that day.

A memo that may have been written by Gary Shapley in December 2020 complains that investigators were not sharing details of the investigation with members of Congress.

The USAO and FBI received congressional inquiries concerning this investigation and have repeatedly ignored their requests, openly mocking the members of Congress who made the requests.

Chuck Grassley was one of those members of Congress. That December 2020 memo is also where the claim that a leak that month came from DOJ rather than investigators.

Another monthly memo Shapley submitted, this one from May 2021, again complained that investigators weren't compromising the

investigation so as to share details with members of Congress.

The USAO and FBI received congressional inquiries concerning this investigation and it's believed they have ignored their requests.

Chuck Grassley was one of those members of Congress.

In April 2022, Bill Haggerty asked Merrick Garland about the Hunter Biden investigation, to which he responded that Weiss was supervising the investigation and "he is in charge of that investigation; there will not be interference of any political or improper kind."

In September 2022, Chuck Grassley claimed to have whistleblower information that Tim Thibault shut down an investigative lead on the Hunter Biden investigation. Reports of Thibault's own testimony, among other details, reveal that this pertained to *using Peter Schweitzer* as an FBI informant – a more problematic choice to be an FBI informant than using Christopher Steele (since Steele was not a known partisan propagandist), and therefore a wild backflip on Grassley's earlier concerns about dodgy informants. And Thibault had actually approved keeping Schweitzer as a source, until an FBI agent closer to the case alerted him to problems with doing so. Thibault was retaliated against as a result, in significant part because of Grassley's misrepresentation of what happened.

I'll return to the way that Shapley ignored warnings going back months before October 2022 that David Weiss wouldn't charge Hunter for 2014 and 2015. I'll return to the way that Shapley ignored warnings that the case would not be charged until after November 2022, and possibly not even until 2023.

What we now know is that the key detail in his otherwise unreliable report from the October 7 meeting – that David Weiss said he "is not the deciding person" on whether to charge Hunter

Biden – is not corroborated by any other witness who attended that meeting. Darren Waldon, his supervisor, described that what Weiss actually said pertained to a description of process, “the process in order to get the case indicted and subsequently prosecuted.”

Shapley made claims that were not backed even by his own handwritten notes.

And yet that is the core of his claim to be a whistleblower: That’s the basis of Gary Shapley’s first publicly claimed reason for coming to Congress – the October 7, 2022 meeting, which Shapley’s attorney Mark Lytle publicly released (in such a way that journalists all knew it pertained to Hunter Biden) in April: the claim that what David Weiss said on October 7 conflicted with what Merrick Garland had told Bill Haggerty in April 2022.

Shapley’s October 7 memorialization, which doesn’t match his own notes and hasn’t been corroborated by other witnesses, is the basis of Gary Shapley’s claim to be a whistleblower, a claim that might be reviewed by Office of Special Counsel.

We also know that Gary Shapley only claims – in a really weird memorialization, provided in lieu of original notes, that writes out “REDACTED” – to have formally become a whistleblower on January 4, 2023, the day Republicans took over the House.

Re: REDACTED Whistleblowing

Told him that Shapley wanted to keep him in the loop so he wasn't caught off guard. Shapley told him that the IRS and TIGTA was notified two days ago that Shapley had retained whistleblower counsel.

Shapley told the DFO that is was on the REDACTED investigation but that Shapley's attorney, and those he had notified, does not know which investigation or who the subject is at this point. Shapley told him that he was relying on his attorney to assist in navigating the 6e and 6103 requirements.

DFO thanked me for letting him know and stated he had not heard about it yet.

Shapley thanked him for his support and for him and his agencies continued support.

DFO responded that Shapley has his support and the agencies support.

In that memorialization, Shapley clearly states that his lawyer has already “participated in calls and/or meetings” with “the Congressional

Judiciary committees.”

DFO asked about the process and Shapley responded that the Congressional Judiciary committees, OSC, IRS OGC and TIGTA have been notified and have participated in calls and/or meetings with my counsel. Shapley said that more

In the memorialization (again, provided in lieu of Shapley’s notes, which have shown discrepancies in the past), Shapley predicted that,

there may be allegations against him, that he believes will be nefarious, from DOJ/USAO and that he hoped the agency would support him during that. [Michael Batdorf] stated that he had not heard of an any allegations made against Shapley.

We also know that on January 25, Shapley asked to take leave so he could – among other things – meet with congressional committees and Inspectors General, a request Michael Batdorf said should not come out of his paid leave. By the time of Shapley’s first (known) testimony in May, he had not yet personally met with any Inspectors General investigators; rather, his attorneys had made disclosures to them. And, as noted, the first formal outreach to Congress was on April 19.

In that letter on April 19, Mark Lytle made absolutely not mention of earlier outreach to the Judiciary Committees.

Despite serious risks of retaliation, my client is offering to provide you with information necessary to exercise your constitutional oversight function and wishes to make the disclosures in a non-partisan manner to the leadership of the relevant committees on both sides of the political aisle.

My client has already made legally protected disclosures at the IRS, through counsel to the U.S. Treasury Inspector General for Tax Administration, and to the Department of Justice, Office of Inspector General.

That is, the claims that Lytle made in that April 19 letter seem to conflict with what Shapely wrote on January 6.

In any case, what was Shapley doing in the two months he was taking leave when he was not yet known to have formally reached out to Congress?

In July, immediately after testimony from Ziegler – who was attending to Congress' interest in this investigation in 2020 – and Shapley – who was furious that investigators weren't compromising the investigation to meet the interests of Congress that same year, Chuck Grassley burned what Republicans all claim had been a credible FBI informant in order to feed the conspiracy theories.

Chuck Grassley is worried that a guy who had dinner with Hunter Biden nine years ago might become Special Counsel. He's worried about that, but not that one of his former staffers went from OSC to the Merit System Protection Board to serving as Gary Shapley's PR person months *after* (per Shapley's own memorialization) he was already reaching out to Congress.

Leavitt began his investigative career working on the Senate Judiciary Committee staff of Senator Chuck Grassley (R-Iowa), where he helped whistleblowers expose schemes like Operation Fast and Furious, the gunwalking scandal that armed the murderers of a U.S. Border Patrol Agent. He also served as Senator Grassley's chief whistleblower policy advisor, leading the introduction of the first Senate resolutions recognizing National Whistleblower Appreciation Day and the establishment of the Senate Whistleblower Protection Caucus.

In 2015 Leavitt joined the House Oversight and Government Reform Committee staff of Chairman Jason Chaffetz (R-Utah). There he worked with dozens of whistleblowers from the U.S.

Secret Service to break news of high-profile misconduct and security breaches. He also investigated Hillary Clinton's use of a private email server while Secretary of State, the FBI's failure to hold her accountable, and politicization at the FBI. He negotiated the passage of the FBI Whistleblower Protection Act of 2016.

In 2017 Leavitt was appointed as Principal Deputy Special Counsel at the Office of Special Counsel, where he helped reform OSC's whistleblower disclosure program and directed a reorganization of OSC's intake and investigative process. He also served as Acting Special Counsel. In late 2018 Leavitt was appointed as the General Counsel of the Merit Systems Protection Board, and for three years served as the acting head of that agency. In 2022 the U.S. Senate confirmed him with bipartisan support as the Republican Member of the Board, a position he held for one year.

Chuck Grassley seems to be panicked that a very carefully orchestrated effort to retroactively pitch Shapley as a whistleblower using formal channels might face real scrutiny.

Given that both Zeigler and Shapley seemed to have more concern about Congress' efforts than the formal investigation starting before Joe Biden became President, that's not all that surprising.