No. 19-1540

IN THE UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

DONALD J. TRUMP, ERIC TRUMP, IVANKA TRUMP, DONALD J. TRUMP, JR., DONALD J. TRUMP REVOCABLE TRUST, TRUMP ORGANIZATION, INC., TRUMP ORGANIZATION LLC, DJT HOLDINGS LLC, DJT HOLDINGS MANAGING MEMBER LLC, TRUMP ACQUISITION LLC, and TRUMP ACQUISITION, CORP.,

Plaintiffs-Appellants,

v.

DEUTSCHE BANK AG, and CAPITAL ONE FINANCIAL CORPORATION,

Defendants-Appellees,

and

COMMITTEE ON FINANCIAL SERVICES OF THE U.S. HOUSE OF REPRESENTATIVES, and PERMANENT SELECT COMMITTEE ON INTELLIGENCE OF THE U.S. HOUSE OF REPRESENTATIVES,

Intervenor Defendants-Appellees.

On Appeal from the U.S. District Court for the Southern District of New York

RESPONSE BRIEF FOR THE COMMITTEE ON FINANCIAL SERVICES AND PERMANENT SELECT COMMITTEE ON INTELLIGENCE OF THE HOUSE TO THE AMICUS BRIEF FOR THE UNITED STATES

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INTRODUCTION

The Department of Justice's amicus brief posits, with no grounding in history or law, an astounding and novel theory of limited Congressional power to conduct investigations and oversight—a theory that counsel for plaintiff-appellant President Donald Trump, who filed this suit in his individual capacity, chose not to raise. The Constitution vests Congress with "[a]ll legislative Powers," U.S. Const., Art. I, § 1, and charges the President with the duty to "take Care that the Laws be faithfully executed," U.S. Const., Art. II, § 3. These powers are separate, as the Department repeatedly emphasizes. But they are also part of "the balanced power structure of our Republic," *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579, 634 (1952) (Jackson, J., concurring), which the Department overlooks.

The Supreme Court has held that Congress's power to investigate extends to any "subject … on which legislation could be had." *McGrain v. Daugherty*, 273 U.S. 135, 177 (1927). The Court has also emphasized that "separation of powers does not mean that the branches 'ought to have no *partial agency* in, or no *controul* over the acts of each other.'" *Clinton v. Jones*, 520 U.S. 681, 703 (1997) (quoting The Federalist No. 47, at 325-26 (J. Cooke ed., 1961)). Congress can exercise its broad investigatory and oversight powers to ensure that the President—as the head of the Executive Branch—is properly executing the laws and expending funds as appropriated. Indeed, these powers have been exercised numerous times in our Nation's history.

Without acknowledging this history, the Department urges this Court to intrude on the U.S. House of Representatives' exercise of its Article I power in ways that would contradict Supreme Court precedent. The Department contends (at 1-2) that the Court should engage in a "searching evaluation" of whether the House Committee on Financial Services and the Permanent Select Committee on Intelligence (collectively, Committees) have legitimate legislative purposes. The Department insists (at 2) that the House must "provide clear authorization" for subpoenas seeking information concerning the President and "identify the legislative need for the information with sufficient particularity." These arguments are fabricated out of whole cloth: they may represent what the Department wishes the law were, but they are not the law.

The Department contends (at 1) that these unprecedented restrictions on Congress are warranted because the Committees' subpoenas to third-party banks might "distract" the President. This argument disregards the Constitution's *balance* of powers, as well as the facts here, which establish that the subpoenas do not in any way intrude on the President's exercise of his official duties. The House has not issued any subpoenas to Mr. Trump or filed suit against him, nor are we aware of any plans to do so. This suit was initiated by Mr. Trump (*not* the Committees) in his individual (*not* official) capacity to enjoin production of non-privileged business records held by third parties, *including records generated by the banks themselves* that only the banks have.

This case presents no basis for this Court to impose sweeping new limitations on Congress's core constitutional powers.

ARGUMENT

I. CONGRESS HAS BROAD CONSTITUTIONAL AUTHORITY TO INVESTIGATE AND CONDUCT OVERSIGHT OF THE EXECUTIVE, INCLUDING THE PRESIDENT, AND THE DEPARTMENT'S CONTRARY VIEW IS UNMOORED FROM HISTORY AND PRECEDENT

As the Committees established in their principal brief (at 1, 27-32), "[a] legislative body cannot legislate wisely or effectively in the absence of information respecting the conditions which the legislation is intended to affect or change." *McGrain*, 273 U.S. at 175. The Supreme Court has thus stressed that Congress's power to investigate "is broad." *Watkins v. United States*, 354 U.S. 178, 187 (1957).

The Department suggests that these principles do not apply equally when Congress examines the President's actions or information. As discussed below, the Department's separation-of-powers concerns are misplaced. The Department's arguments are also belied by history: past Presidents have long been subject to Congressional investigations. Presidents have at times raised executive privilege and other claims in efforts to protect specific information. Here, however, the Department asks this Court to go beyond that noncategorical privilege and create new constitutional doctrine insulating the President from Congressional oversight and investigation.

1. Throughout history, Congress has investigated and conducted oversight of Presidents in matters both official and personal—including conduct of wars, corruption, and financial affairs.[1] This practice is not simply of historical interest; it informs the proper interpretation of our Constitution. *Mistretta v. United States*, 488 U.S. 361, 398-404 (1989). As the following illustrative examples demonstrate, Presidents from George Washington on (unlike Mr. Trump) have understood that Congress has the power to conduct investigations and oversight of the President:

- ***St. Clair Investigation:*** In 1792, the House established a committee to investigate General Arthur St. Clair's failed military campaign, authorizing it to "call for such persons, papers, and records, as may be necessary to assist its inquiries." 3 *Annals of Cong.* 493 (1792). President Washington determined that the inquiry was proper but that requests for "papers [that] were under the President alone" should be made by the House to the President, who should release such papers "as the public good would permit." 1 *Writings of Thomas Jefferson* 304 (Albert Bergh ed., 1903); 3 *Annals of Cong.* 536 (1792) (resolving "[t]hat the President of the United States" cause production of necessary public papers).
- ***President Buchanan Investigation:*** In 1860, the House established a committee to investigate, among other issues, "whether the President of the

[1] *See generally Congress Investigates 1792-1974* (Arthur Schlesinger, Jr. & Roger Bruns eds., 1975) (*Congress Investigates*).

United States [Buchanan] … has, by money, patronage, or other improper means, sought to influence the action of Congress." *Cong. Globe*, 36th Cong., 1st Sess. 997 (1860); *see id.* at 998. The committee received testimony about the President's personal correspondence. H. Rep. No. 36-648, at 112-113 (1860).

- ***Civil War Investigation:*** In 1861, Congress established a joint committee "to inquire into the conduct" of the ongoing Civil War. *Cong. Globe*, 37th Cong., 2d Sess. 32, 40 (1861). The committee investigated President Lincoln's conduct of the war, including his selection of military commanders, and the President lamented that the committee's "greatest purpose seems to be to hamper my action and obstruct the military operations." *Recollected Words of Abraham Lincoln* 288 (Don Fehrenbacher & Virginia Fehrenbacher eds., 1996). Yet President Lincoln met personally with the committee during the investigation. Bruce Tap, *Over Lincoln's Shoulder: The Committee on the Conduct of the War* 105-07 (1998); Elisabeth Joan Doyle, *The Conduct of the War, 1861*, in *Congress Investigates* 75.
- ***Pearl Harbor Investigation:*** In 1945, Congress established a joint committee to investigate the attack on Pearl Harbor. S. Con. Res. 27, 79th Cong. (1945). President Truman instructed the relevant military departments to provide the committee with "any information they may have on the subject of the inquiry." S. Rep. No. 79-244, at 286 (1946). President

Truman promised that if the committee had "any difficulty" obtaining files from the prior Administration, he would "be glad to issue the necessary order so that [the committee] may have complete access." *Id.* at 285.

- ***President Nixon's Tax Returns:*** In 1973 and 1974, the Joint Committee on Taxation investigated President Nixon's tax returns for the years 1969 to 1972 and the Internal Revenue Service's auditing of those returns. S. Rep. No. 93-768 (1974). President Nixon made his returns for those years available to the committee, which used its statutory authority to obtain additional documents from the IRS, including certified copies of President Nixon's returns, the President's returns from other years, and returns of President Nixon's family members.[2]

- ***Iran-Contra Investigation:*** In 1987, during the Iran-Contra investigation, Congress obtained numerous documents with the assistance of President Reagan. H. Rep. No. 100-433, at xv (1987). "The President cooperated with the investigation. He did not assert executive privilege; he instructed all relevant agencies to produce their documents and witnesses; and he made extracts available from his personal diaries[.]" *Id.* at xvi.

- ***Whitewater Investigation:*** In 1995, a Senate committee investigated the Whitewater Development Corporation (in which President and First Lady

[2] Memorandum from Richard Neal, Chairman, to the Members of the H. Comm. on Ways and Means 3 (July 25, 2019), https://perma.cc/UYZ2-QTCU.

Clinton were involved before he assumed office), including whether White House officials improperly handled documents. S. Res. 120, 104th Cong. (1995); S. Rep. No. 104-280 (1996). The committee heard testimony from the Clintons' personal accountant,[3] subpoenaed documents relating to Mrs. Clinton's law-firm billing records,[4] subpoenaed third-party telephone records for calls from the White House,[5] and received testimony from the Clintons' personal attorney.[6]

This Court cannot disregard this extensive historical practice of Congressional investigation and oversight of Presidents in their official and personal capacities. *See NLRB v. Noel Canning*, 573 U.S. 513, 525 (2014) ("longstanding practice of the government, can inform our determination of what the law is" (quotation marks omitted)).

2. The Department urges (at 5-9) that the President is entitled to special solicitude under separation-of-powers principles. But the Department's argument elides the point that a sitting President "is subject to judicial process in appropriate circumstances." *Clinton*, 520 U.S. at 703. In *Clinton*, the Supreme Court rejected the argument that separation-of-powers principles protect a sitting President from suit for

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[3] *Hearings Before the Special Comm. to Investigate Whitewater Dev. Corp. and Related Matters*, S. Hrg. 104-869, Vol. XIII, 3103-35 (1996) (testimony of Gaines Norton, Jr.).

[4] S. Rep. No. 104-280, at 155-61, 237-38 (1996).

[5] *Id.* at 49-50.

[6] *Hearings Before the Special Comm. to Investigate Whitewater Dev. Corp. and Related Matters*, S. Hrg. 104-869, Vol. XII, 1471-1534 (1996) (testimony of David Kendall).

private conduct: that a suit "may significantly burden the time and attention of the Chief Executive is not sufficient to establish a violation of the Constitution." *Id.*; *see id.* at 704 ("President Monroe responded to written interrogatories," "President Ford complied with an order to give a deposition in a criminal trial," and "President Clinton has twice given videotaped testimony in criminal proceedings"). The Supreme Court similarly required President Nixon to comply with a subpoena to produce certain tapes of his conversations with aides. *United States v. Nixon*, 418 U.S. 683, 706 (1974).

Indeed, in holding that a President has absolute immunity from damages liability for *official* acts, the Supreme Court emphasized the importance of Congressional oversight as a "protection against misconduct on the part of the Chief Executive." *Nixon v. Fitzgerald*, 457 U.S. 731, 757 (1982). *Fitzgerald* stressed that "formal and informal checks on Presidential action" include "[v]igilant oversight by Congress [that] also may serve to deter Presidential abuses of office, as well as to make credible the threat of impeachment." *Id.*[7]

[7] The Department recognizes (at 12 n.1) that "the impeachment power is an express authority whose exercise does not require a connection to valid legislation." In fact, the House Committee on the Judiciary is investigating whether to recommend articles of impeachment against President Trump. Compl. ¶ 1, *Committee on the Judiciary v. McGahn*, No. 19-2379 (D.D.C. Aug. 7, 2019). Under House Rules, all Members, including those on the Judiciary Committee, "shall have access" to information obtained by the Committees here. House Rule XI.2(e)(2)(A).

Presidents do not need the courts to invent new theories to thwart Congress's exercise of its constitutional responsibilities; Presidents already have protection from Congressional overreach. In addition to using his robust political tools, a President may—in an appropriate case—claim executive privilege, *Nixon*, 418 U.S. at 711-13, or seek protection from a subpoena that *actually* impedes the "performance of [his] constitutional duties," *Cheney v. U.S. Dist. Court for D.C.*, 542 U.S. 367, 382 (2004). The Department does not directly raise those arguments here because the information sought is not privileged, and the banks' responses to the subpoenas will not prevent the President "from accomplishing [his] constitutionally assigned functions." *Nixon v. Administrator of Gen. Servs.*, 433 U.S. 425, 443 (1977).

Nor does the President claim any national-security (or other governmental) interest in the banks' records that might, as the Department suggests (at 9), justify a "negotiation-and-accommodation process" as in *United States v. AT&T*, 551 F.2d 384 (D.C. Cir. 1976). And this is not a case like *Senate Select Committee on Presidential Campaign Activities v. Nixon*, 498 F.2d 725, 732-33 (D.C. Cir. 1974) (en banc), where another committee of Congress already "has in its possession copies of [the subpoenaed materials]," such that the "Committee's immediate oversight need for [them] is, from a congressional perspective, merely cumulative," and the Committee has no legislative need for "immediate access of its own."

The Committees' subpoena is an exercise of the House's Article I power and not an attempt to usurp Executive power. It therefore does not raise the separation-

of-powers concerns presented in *Bowsher v. Synar*, 478 U.S. 714, 726 (1986), where Congress effectively "reserve[d] … control over the execution of the laws," or in *Free Enterprise Fund v. PCAOB*, 561 U.S. 477 (2010), where Congress limited the President's power to remove inferior officers. As the D.C. Circuit observed in *AT&T*, even cases deferring to Executive action in foreign affairs "do not establish judicial deference to executive determinations in the area of national security *when the result of that deference would be to impede Congress in exercising its legislative powers*." 551 F.2d at 392 (emphasis added).

The Department's speculation (*e.g.*, at 7) that the President might be "burden[ed]" by "successive subpoenas in waves," provides no ground for relief. If Congress were to later issue abusive subpoenas, the courts could address those subpoenas as appropriate. Nor are the Committees' subpoenas "overbroad," as the Department asserts (*e.g.*, at 27)—to the contrary, the Committees issued subpoenas to obtain necessary information relevant to authorized investigations of national importance. *See* Comms. Br. 34-40.

To the extent Mr. Trump contends that subpoenas directed at third parties—rather than the President himself—are an improper "attempt to circumvent the President" (Appellants' Resp. 2, *Trump v. Mazars*, No. 19-5142 (D.C. Cir. Aug. 20, 2019)), that argument is also wrong. As the Committees explained (*e.g.*, Comms. Br. 11, 17, 36, 39), they are seeking internal Capital One and Deutsche Bank documents, including bank analyses of Mr. Trump's accounts that may show risks of money

laundering, unsafe lending practices, and foreign influence. Those documents are likely to provide valuable information for the investigations and could not have been obtained directly from Mr. Trump.

Mr. Trump has oddly argued (Appellants' Resp. 2-4, *Mazars*) that the Committees should have subpoenaed him directly instead of following a process designed to minimize his burden. Indeed, unlike what would occur in a suit filed against the President, the third-party banks' responses are highly unlikely to occupy even a small amount of the President's time. *Cf. In re Trump*, No. 19-5196, 2019 WL 3285234, *1 (D.C. Cir. July 19, 2019) (per curiam) (expressing concern that the district court had not considered alternatives to discovery, including "more limited discovery" on threshold issues, "given the separation of powers issues present in a lawsuit brought by members of the Legislative Branch *against the President of the United States*" in his official capacity (emphasis added)).

This case is not, as the Department suggests (at 8), an "end run" around a statute preventing disclosure of the President's records as in *Judicial Watch, Inc. v. U.S. Secret Service*, 726 F.3d 208, 225 (D.C. Cir. 2013). The Committees are exercising their constitutional power to seek non-privileged documents from third parties that do not relate to "the day-to-day operations of the President." *Id.* at 228 (quotation marks omitted). The separation-of-powers concerns in *Judicial Watch* do not apply to these personal business records or to the banks' internal records.

The President is protected by existing limitations on Congressional investigations; there is no need for this Court to create new ones. Specifically, Congress must have a legitimate legislative purpose and cannot engage in law enforcement or exposure when the result can only invade individuals' private rights. Comms. Br. 32-33 (citing *Quinn v. United States*, 349 U.S. 155, 161 (1955), and *Watkins*, 354 U.S. at 200). None of these limitations is implicated here. *Id.* at 32-48.

II. THE COMMITTEES' SUBPOENAS ARE AUTHORIZED AND VALID, AND THE DEPARTMENT'S NEWLY PROPOSED LIMITATIONS ON CONGRESSIONAL AUTHORITY ARE WRONG

The Department urges (at 10-11) this Court to create a demanding test that would limit Congressional investigations relating to the President by requiring the House or committees to identify in advance the legislative purpose "with sufficient particularity," such that courts could "concretely review the validity of any potential legislation." The Department demands both a "clear statement" of authorization for the subpoena (at 10, 12, 18), and a "clear statement of a valid legislative purpose" (at 19).

As an initial matter, the Department never acknowledges that Mr. Trump, litigating in his individual capacity, decided not to raise the clear-statement rule in this case (despite having raised that argument at least in his reply brief in the *Mazars* appeal). Mr. Trump thus waived the argument, and this Court should not reverse the district court on grounds raised for the first time by an amicus on appeal in these circumstances. *Bano v. Union Carbide Corp.*, 273 F.3d 120, 127 n.5 (2d Cir. 2001)

(declining to reach argument "raised by *amici*, not by the appellants themselves," and "apparently … not raised by any party before the district court"); *see generally Design Strategy, Inc. v. Davis*, 469 F.3d 284, 300 (2d Cir. 2006).

More importantly, the Department's invented test is inconsistent with Supreme Court precedent, the proper role of the courts and Congress, and the reality of Congressional investigations. The additional justification that the Department demands would hamper Congressional investigations and significantly delay the receipt of material needed to consider legislation. The Department's proposed justification is not necessary to resolve whether a Congressional subpoena is valid under applicable law.

1. The Department principally relies (at 12-13) on the Supreme Court's decision in *Watkins* to argue that the Committees must clearly articulate a legislative purpose before issuing a subpoena. But *ex post* identification of legislative proposals is not what concerned the Supreme Court in *Watkins*. In reviewing a conviction for criminal contempt arising out of a Cold War loyalty investigation involving "broad-scale intrusion into the lives and affairs of private citizens," the Supreme Court held that the defendant had not been given fair notice of the subject matter of the committee's inquiry before being held in contempt. 354 U.S. at 195, 215-16. The Court was concerned that "[a]buses of the investigative process may imperceptibly lead to abridgment of protected freedoms. The mere summoning of a witness and compelling him to testify, against his will, about his beliefs, expressions or associations

is a measure of governmental interference." *Id.* at 197. No such danger is present here.[8]

Watkins undermines the Department's argument that legislative purpose and the relevance of information must be publicly declared *before* an investigation commences. In considering the inquiry's scope, the Supreme Court reviewed the authorizing resolution, 354 U.S. at 209; the chairman's opening statement, *id.* at 209-10; the chairman's reference to a bill at the hearing, *id.* at 212-13; other hearing witness testimony, *id.* at 213; the questions challenged by the defendant, *id.* at 213-14; and the chairman's response when the defendant objected, *id.* at 214. If only reasons stated *ex ante* were relevant, *Watkins* would have looked quite different.

Additionally, the Department's invocation of constitutional avoidance is misplaced because *its* new test would significantly intrude on Congress's authority. Therefore, this is not a case like *Tobin v. United States*, 306 F.2d 270, 272, 274 n.7 (D.C. Cir. 1960), where the subcommittee had a single "stated purpose" that raised difficult constitutional questions. The Committees here have multiple, legitimate legislative

[8] *Watkins* was "not concerned with the power of the Congress to inquire into and publicize corruption, maladministration or inefficiency in agencies of the Government." 354 U.S. at 200 n.33; *see* Comms. Br. 37, 39 (describing investigation into agency administration).

purposes that do not require this Court to resolve difficult constitutional questions, and any one of these purposes justifies the subpoenas here.[9]

2. The Committees' subpoenas were properly authorized under House Rules when issued, and the Department does not argue otherwise. Exercising its authority under the Rulemaking Clause, U.S. Const., Art. I, § 5, cl. 2, the House delegated to its committees authority to conduct investigations and issue subpoenas. Even if a House resolution were required (which it is not), the Department recognizes (at 19) that House Resolution 507, 116th Cong. (2019), "clearly authorizes the Committees' subpoenas."

The Department takes issue with what it characterizes (at 19) as the "blank-check" resolution, which authorizes existing and future subpoenas. That the House has elected to exercise its Article I authority to authorize all subpoenas seeking information concerning the President only underscores that the House already understood the committees to have such power. Moreover, the resolution expressly requires committees to act pursuant to their respective jurisdictions, and they must otherwise comply with House Rules. It would be wrong for this Court to quash the current subpoenas to Deutsche Bank and Capital One simply because Congress has

[9] The Department focuses extensively (at 19-21) on House Resolution 206, which, as explained (Comms. Br. 9-10), contains important background on the Financial Services Committee's investigation. The Department overlooks, among other things, the additional explanation for the investigation *and* the specific legislative proposals. *E.g.*, *id.* at 13.

chosen to authorize future subpoenas. The Court should not prejudge whether future investigations would present any of the Department's concerns. *Cf. Lucia v. SEC*, 138 S. Ct. 2044, 2055 n.6 (2018).

The Department's further contention (at 11) that the House should identify potential legislation with particularity misunderstands that "[t]he very nature of the investigative function," like any research, can involve some "nonproductive enterprises." *Eastland v. U.S. Servicemen's Fund*, 421 U.S. 491, 509 (1975). The Department's test is at odds with the Supreme Court's express recognition that legislatures need facts to legislate wisely—facts that are frequently obtained through investigations. *McGrain*, 273 U.S. at 175. And legislative proposals may develop during an investigation in response to the information obtained.

Even if the Department were correct (at 18-19) that a clear statement is needed before Congress can seek information concerning the President, that has been satisfied here: Chairwoman Waters stated that the Financial Services Committee seeks information concerning the President, 165 Cong. Rec. H2698 (daily ed. Mar. 13, 2019); Chairman Schiff made the same point clear for the Intelligence Committee (*see* Comms. Br. 14-15 & n.11); the subpoenas themselves request such information (JA37, JA52); and the House has since "clearly authorize[d]" these subpoenas, as the Department concedes (at 19). No more is needed to ensure that the House and the Committees have considered their legitimate needs and determined that such subpoenas are warranted. The Department's argument (at 18-26) that the

Committees' expression of legislative purpose (Comms. Br. 9-19, 34-40) is insufficient is inconsistent with *McGrain*, where the Supreme Court held sufficient a resolution that did "not in terms avow that it is intended to be in aid of legislation"—much less identify specific legislation. 273 U.S. at 177.

Criticism by subjects of Congressional investigations that those investigations are politically motivated is nothing new. *See Eastland*, 421 U.S. at 508. The Senate's investigation of the Teapot Dome scandal provoked accusations of "blatantly partisan behavior." Hasia Diner, *Teapot Dome 1924*, in *Congress Investigates* 212. Yet the Supreme Court held that "[p]lainly, the subject [of the investigation] was one on which legislation could be had," *McGrain*, 273 U.S. at 177, and emphasized that, when an investigation could aid Congress's legitimate legislative purposes, "the presumption should be indulged that this was the real object," *id.* at 178. Courts are thus "bound to presume that the action of the legislative body [is] with a legitimate object, if it is capable of being so construed." *Id.* (quotation marks omitted).

The Department contends (at 20-21) that this presumption should not apply here, raising the specter of potentially unconstitutional legislative actions. But the Department offers no explanation for how this Court could examine the constitutional validity of legislation that has not yet been proposed (*see* Comms. Br. 48-49), or why the Court would need to do so when the Committees are considering legislative proposals that raise no such issues (*id.* at 13, 18-19).

Respectfully submitted,

/s/ Douglas N. Letter

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August 21, 2019

CERTIFICATE OF COMPLIANCE

1. This brief complies with the type-volume limitation of Circuit Rule 32.1(a)(4)(A) because this brief contains 4,000 words, excluding the parts of the brief exempted by Fed. R. App. P. 32(f).

2. This brief complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and the type style requirements of Fed. R. App. P. 32(a)(6) because this brief has been prepared in a proportionally spaced typeface using Microsoft Word Professional Plus 2016 in 14-point Garamond type.

/s/ Douglas N. Letter
Douglas N. Letter

CERTIFICATE OF SERVICE

I certify that on August 21, 2019, I filed a copy of the foregoing Brief for the Committee on Financial Services and the Permanent Select Committee on Intelligence of the U.S. House of Representatives via the CM/ECF system of the United States Court of Appeals for the Second Circuit, which I understand caused service on all registered parties.

/s/ Douglas N. Letter
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