

ORAL ARGUMENT SCHEDULED FOR JULY 12, 2019

No. 19-5142

**IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

DONALD J. TRUMP; THE TRUMP ORGANIZATION, INC.; TRUMP ORGANIZATION LLC;
THE TRUMP CORPORATION; DJT HOLDINGS LLC; THE DONALD J. TRUMP
REVOCABLE TRUST; and TRUMP OLD POST OFFICE LLC,

Plaintiffs-Appellants,

v.

MAZARS USA, LLP,

Defendant-Appellee,

COMMITTEE ON OVERSIGHT AND REFORM OF THE U.S. HOUSE OF REPRESENTATIVES,

Intervenor-Defendant-Appellee.

On Appeal from the United States District Court
for the District of Columbia, No. 19-cv-01136 (APM)

JOINT APPENDIX

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Dated: June 10, 2019

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TABLE OF CONTENTS

District Court Docket Sheet.....	JA1
Complaint	JA8
Declaration of William S. Consovoy	JA22
Declaration of Greta G. Gao	JA32
Supplemental Declaration of William S. Consovoy	JA87
Transcript.....	JA166
Second Supplemental Declaration of William S. Consovoy	JA259
Opinion.....	JA267
Notice of Appeal	JA308

APPEAL,CLOSED,TYPE-D

**U.S. District Court
District of Columbia (Washington, DC)
CIVIL DOCKET FOR CASE #: 1:19-cv-01136-APM**

TRUMP et al v. COMMITTEE ON OVERSIGHT AND
REFORM OF THE U.S. HOUSE OF REPRESENTATIVES et
al

Assigned to: Judge Amit P. Mehta
Case in other court: USCA, 19-05142
Cause: 28:1331 Fed. Question

Date Filed: 04/22/2019
Date Terminated: 05/20/2019
Jury Demand: None
Nature of Suit: 890 Other Statutory
Actions
Jurisdiction: U.S. Government Defendant

Plaintiff**DONALD J. TRUMP**

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Plaintiff**DJT HOLDINGS LLC**

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Plaintiff**DONALD J. TRUMP REVOCABLE
TRUST**

represented by **William S. Consovay**
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Plaintiff**TRUMP OLD POST OFFICE LLC**

represented by **William S. Consovay**
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V.

Defendant

ELIJAH E. CUMMINGS
*in his official capacity as Chairman of the
House Committee on Oversight and*

Reform
TERMINATED: 04/29/2019

Defendant

PETER KENNY

*in his official capacity as Chief
Investigative Counsel of the House
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TERMINATED: 04/29/2019*

Defendant

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V.

Interested Party

HOMER DOUGLAS COBB, IV

V.

Intervenor Defendant

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REFORM OF THE U.S. HOUSE OF
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Movant

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Date Filed	#	Docket Text
04/22/2019	<u>1</u>	COMPLAINT against All Defendants (Filing fee \$ 400 receipt number 0090-6072689) filed by All Plaintiffs (Attachments: # <u>1</u> Civil Cover Sheet, # <u>2</u> Summons for Elijah E. Cummings, # <u>3</u> Summons for Peter Kenny)(Consovsky, William) Modified to add "All Plaintiffs" on 4/22/2019 (zef,). (Entered: 04/22/2019)
04/22/2019	<u>2</u>	REQUEST FOR SUMMONS TO ISSUE to <i>Mazars USA LLP</i> filed by DONALD J. TRUMP REVOCABLE TRUST, TRUMP ORGANIZATION LLC, TRUMP OLD POST OFFICE LLC, TRUMP ORGANIZATION, INC., DONALD J. TRUMP, TRUMP CORPORATION, DJT HOLDINGS LLC.(Consovsky, William) (Entered: 04/22/2019)
04/22/2019		Case Assigned to Judge Amit P. Mehta. (zef,) (Entered: 04/22/2019)
04/22/2019	<u>3</u>	LCvR 26.1 CERTIFICATE OF DISCLOSURE of Corporate Affiliations and Financial Interests by TRUMP ORGANIZATION, INC. (Consovsky, William) (Entered: 04/22/2019)
04/22/2019	<u>4</u>	LCvR 26.1 CERTIFICATE OF DISCLOSURE of Corporate Affiliations and Financial Interests by TRUMP ORGANIZATION LLC (Consovsky, William) (Entered: 04/22/2019)

04/22/2019	<u>5</u>	LCvR 26.1 CERTIFICATE OF DISCLOSURE of Corporate Affiliations and Financial Interests by TRUMP CORPORATION (Consovoy, William) (Entered: 04/22/2019)
04/22/2019	<u>6</u>	SUMMONS (3) Issued Electronically as to ELIJAH E. CUMMINGS, PETER KENNY, MAZARS USA LLP. (Attachments: # <u>1</u> Notice and Consent)(zef,) (Entered: 04/22/2019)
04/22/2019	<u>7</u>	LCvR 26.1 CERTIFICATE OF DISCLOSURE of Corporate Affiliations and Financial Interests by DJT HOLDINGS LLC (Consovoy, William) (Entered: 04/22/2019)
04/22/2019	<u>8</u>	LCvR 26.1 CERTIFICATE OF DISCLOSURE of Corporate Affiliations and Financial Interests by TRUMP OLD POST OFFICE LLC (Consovoy, William) (Entered: 04/22/2019)
04/22/2019	<u>9</u>	MOTION for Temporary Restraining Order by DJT HOLDINGS LLC, DONALD J. TRUMP REVOCABLE TRUST, DONALD J. TRUMP, TRUMP CORPORATION, TRUMP OLD POST OFFICE LLC, TRUMP ORGANIZATION LLC, TRUMP ORGANIZATION, INC. (Attachments: # <u>1</u> Memorandum in Support, # <u>2</u> Declaration of William S. Consovoy, # <u>3</u> Text of Proposed Order, # <u>4</u> Local Rule 65.1(a) Certificate of Counsel)(Consovoy, William) (Entered: 04/22/2019)
04/22/2019	<u>10</u>	Emergency MOTION for Order <i>Shortening Defendants' Time to Respond to TRO Application</i> by DJT HOLDINGS LLC, DONALD J. TRUMP REVOCABLE TRUST, DONALD J. TRUMP, TRUMP CORPORATION, TRUMP OLD POST OFFICE LLC, TRUMP ORGANIZATION LLC, TRUMP ORGANIZATION, INC. (Attachments: # <u>1</u> Text of Proposed Order)(Consovoy, William) (Entered: 04/22/2019)
04/22/2019	<u>11</u>	MOTION for Preliminary Injunction by DJT HOLDINGS LLC, DONALD J. TRUMP REVOCABLE TRUST, DONALD J. TRUMP, TRUMP CORPORATION, TRUMP OLD POST OFFICE LLC, TRUMP ORGANIZATION LLC, TRUMP ORGANIZATION, INC. (Attachments: # <u>1</u> Memorandum in Support, # <u>2</u> Declaration of William S. Consovoy, # <u>3</u> Text of Proposed Order)(Consovoy, William) (Entered: 04/22/2019)
04/23/2019		MINUTE ORDER. Consistent with the parties' joint scheduling submission, the court sets the following schedule for further proceedings in this matter. Intervenor-Defendant Committee on Oversight and Reform agrees to postpone the return date on its subpoena to Mazars USA, LLP until seven days after the court rules on Plaintiffs' Motion for Preliminary Injunction. Intervenor-Defendant Committee on Oversight and Reform's and Mazars USA LLP's Opposition(s), if any, shall be filed by Wednesday, May 1, 2019. Plaintiffs' Replies shall be filed by May 8, 2019. Oral Argument is scheduled for May 14, 2019, at 11:00 a.m. in Courtroom 10. In addition, in light of the parties' agreed-upon schedule, Plaintiffs' Emergency Motion to Shorten Time, ECF No. 10, is denied as moot. Plaintiffs' Application for a Temporary Restraining Order, ECF No. 9, is likewise denied as moot. Signed by Judge Amit P. Mehta on 04/23/2019. (lcapm3) (Entered: 04/23/2019)
04/23/2019		Set/Reset Deadlines/Hearings: Oppositions due by 5/1/2019. Replies due by 5/8/2019. Oral Argument for 5/14/2019 at 11:00 AM in Courtroom 10 before Judge Amit P. Mehta. (zjd) (Entered: 04/25/2019)
04/26/2019	<u>12</u>	Consent MOTION to Intervene <i>as Defendant</i> by COMMITTEE ON OVERSIGHT AND REFORM OF THE U.S. HOUSE OF REPRESENTATIVES (Attachments: # <u>1</u> Text of Proposed Order)(Letter, Douglas) (Entered: 04/26/2019)
04/29/2019	<u>13</u>	ORDER granting <u>12</u> Consent Motion to have Committee on Oversight and Reform of the U.S. House of Representatives Intervene as Defendant. See attached Order for additional details. Signed by Judge Amit P. Mehta on 04/29/2019. (lcapm3) (Entered: 04/29/2019)
04/29/2019	<u>14</u>	WAIVER OF SERVICE by DONALD J. TRUMP REVOCABLE TRUST, TRUMP ORGANIZATION LLC, TRUMP OLD POST OFFICE LLC, TRUMP ORGANIZATION, INC., DONALD J. TRUMP, TRUMP CORPORATION, DJT HOLDINGS LLC. MAZARS USA LLP waiver sent on 4/29/2019, answer due 6/28/2019. (Consovoy, William) (Entered: 04/29/2019)
04/29/2019	<u>15</u>	STIPULATION by DJT HOLDINGS LLC, DONALD J. TRUMP REVOCABLE TRUST, DONALD J. TRUMP, TRUMP CORPORATION, TRUMP OLD POST

		OFFICE LLC, TRUMP ORGANIZATION LLC, TRUMP ORGANIZATION, INC.. (Consovoy, William) (Entered: 04/29/2019)
05/01/2019	<u>16</u>	NOTICE of Appearance by Douglas N. Letter on behalf of COMMITTEE ON OVERSIGHT AND REFORM OF THE U.S. HOUSE OF REPRESENTATIVES (Letter, Douglas) (Entered: 05/01/2019)
05/01/2019	<u>17</u>	NOTICE of Appearance by Todd Barry Tatelman on behalf of COMMITTEE ON OVERSIGHT AND REFORM OF THE U.S. HOUSE OF REPRESENTATIVES (Tatelman, Todd) (Entered: 05/01/2019)
05/01/2019	<u>18</u>	NOTICE of Appearance by Megan Barbero on behalf of COMMITTEE ON OVERSIGHT AND REFORM OF THE U.S. HOUSE OF REPRESENTATIVES (Barbero, Megan) (Entered: 05/01/2019)
05/01/2019	<u>19</u>	NOTICE of Appearance by Brooks McKinly Hanner on behalf of COMMITTEE ON OVERSIGHT AND REFORM OF THE U.S. HOUSE OF REPRESENTATIVES (Hanner, Brooks) (Entered: 05/01/2019)
05/01/2019	<u>20</u>	Memorandum in opposition to re <u>11</u> MOTION for Preliminary Injunction filed by COMMITTEE ON OVERSIGHT AND REFORM OF THE U.S. HOUSE OF REPRESENTATIVES. (Attachments: # <u>1</u> Declaration of Greta G. Gao, # <u>2</u> Exhibit A to Declaration of Greta G. Gao, # <u>3</u> Exhibit B to Declaration of Greta G. Gao)(Letter, Douglas) (Entered: 05/01/2019)
05/01/2019	<u>21</u>	NOTICE of Appearance by Henry Frederick Schuelke, III on behalf of MAZARS USA LLP (Schuelke, Henry) (Entered: 05/01/2019)
05/01/2019	<u>22</u>	LCvR 26.1 CERTIFICATE OF DISCLOSURE of Corporate Affiliations and Financial Interests by MAZARS USA LLP (Schuelke, Henry) (Entered: 05/01/2019)
05/01/2019	<u>23</u>	RESPONSE re <u>11</u> MOTION for Preliminary Injunction filed by MAZARS USA LLP. (Schuelke, Henry) (Entered: 05/01/2019)
05/08/2019	<u>24</u>	REPLY to opposition to motion re <u>11</u> MOTION for Preliminary Injunction filed by DJT HOLDINGS LLC, DONALD J. TRUMP REVOCABLE TRUST, DONALD J. TRUMP, TRUMP CORPORATION, TRUMP OLD POST OFFICE LLC, TRUMP ORGANIZATION LLC, TRUMP ORGANIZATION, INC.. (Consovoy, William) (Entered: 05/08/2019)
05/09/2019	<u>25</u>	ORDER notifying the parties that the court intends to advance <u>11</u> Plaintiffs' Motion for Preliminary Injunction to trial on the merits. See attached Order for additional details. Signed by Judge Amit P. Mehta on 05/09/2019. (lcapm3) (Entered: 05/09/2019)
05/09/2019		Set/Reset Deadlines: Objections and/or Supplemental Memoranda due by 5/13/2019 at 5:00 pm. (zjd) (Entered: 05/09/2019)
05/10/2019	<u>26</u>	MOTION for Leave to Appear Pro Hac Vice :Attorney Name- Jerry D. Bernstein, :Firm- Blank Rome LLP, :Address- 1271 Avenue of the Americas. Phone No. - (212) 885-5511. Fax No. - (917) 332-3766 Filing fee \$ 100, receipt number 0090-6116867. Fee Status: Fee Paid. by MAZARS USA LLP (Attachments: # <u>1</u> Declaration Declaration of Jerry D. Bernstein, # <u>2</u> Text of Proposed Order Bernstein Decl. Ex. A (Proposed Order))(Schuelke, Henry) (Entered: 05/10/2019)
05/10/2019		MINUTE ORDER granting <u>26</u> Motion for Leave to Appear Pro Hac Vice. Attorney Jerry D. Bernstein is hereby admitted pro hac vice to appear in this matter on behalf of Defendant Mazars USA LLP. Signed by Judge Amit P. Mehta on 05/10/2019. (lcapm3) (Entered: 05/10/2019)
05/10/2019	<u>27</u>	NOTICE of Appearance by Lawrence H. Wechsler on behalf of MAZARS USA LLP (Wechsler, Lawrence) (Entered: 05/10/2019)
05/10/2019	<u>28</u>	MOTION for Leave to File An Amicus Brief by DUANE MORLEY COX (Attachments: # <u>1</u> Text of Proposed Order)(jf) (Entered: 05/13/2019)
05/13/2019	<u>29</u>	RESPONSE TO ORDER OF THE COURT re <u>25</u> Order filed by DJT HOLDINGS LLC, DONALD J. TRUMP REVOCABLE TRUST, DONALD J. TRUMP, TRUMP CORPORATION, TRUMP OLD POST OFFICE LLC, TRUMP ORGANIZATION LLC, TRUMP ORGANIZATION, INC.. (Consovoy, William) (Entered: 05/13/2019)

05/13/2019	<u>30</u>	AFFIDAVIT <i>Supplemental Declaration of William S. Consovoy</i> by DJT HOLDINGS LLC, DONALD J. TRUMP REVOCABLE TRUST, DONALD J. TRUMP, TRUMP CORPORATION, TRUMP OLD POST OFFICE LLC, TRUMP ORGANIZATION LLC, TRUMP ORGANIZATION, INC.. (Consovoy, William) (Entered: 05/13/2019)
05/13/2019	<u>31</u>	RESPONSE TO ORDER OF THE COURT re <u>25</u> Order filed by COMMITTEE ON OVERSIGHT AND REFORM OF THE U.S. HOUSE OF REPRESENTATIVES. (Letter, Douglas) (Entered: 05/13/2019)
05/13/2019		MINUTE ORDER. The hearing will proceed tomorrow as scheduled. During the hearing, the court will take up the objections to its <u>25</u> Consolidation Order made in Plaintiffs' <u>29</u> Response to Order of the Court. Signed by Judge Amit P. Mehta on 05/13/2019. (lcapm3) (Entered: 05/13/2019)
05/14/2019	<u>32</u>	NOTICE of Appearance by Josephine T. Morse on behalf of COMMITTEE ON OVERSIGHT AND REFORM OF THE U.S. HOUSE OF REPRESENTATIVES (Morse, Josephine) (Entered: 05/14/2019)
05/14/2019		Minute Entry for proceedings held before Judge Amit P. Mehta: Oral Argument held on 5/14/2019 re <u>11</u> Motion for Preliminary Injunction. Oral Motion by Intervenor Defendant for summary judgment on the pleadings. The record will be open until 5/18/2019. Intervenor Defendant's In-Camera Submission due by 5/16/2019. (Court Reporter: William Zaremba) (zjd) (Entered: 05/14/2019)
05/14/2019	<u>33</u>	<p>TRANSCRIPT OF ORAL ARGUMENT PROCEEDINGS before Judge Amit P. Mehta held on May 14, 2019; Page Numbers: 1–93. Date of Issuance: May 14, 2019. Court Reporter/Transcriber: William Zaremba; Telephone number: (202) 354–3249. Transcripts may be ordered by submitting the Transcript Order Form</p> <p>For the first 90 days after this filing date, the transcript may be viewed at the courthouse at a public terminal or purchased from the court reporter referenced above. After 90 days, the transcript may be accessed via PACER. Other transcript formats, (multi-page, condensed, PDF or ASCII) may be purchased from the court reporter.</p> <p>NOTICE RE REDACTION OF TRANSCRIPTS: The parties have twenty-one days to file with the court and the court reporter any request to redact personal identifiers from this transcript. If no such requests are filed, the transcript will be made available to the public via PACER without redaction after 90 days. The policy, which includes the five personal identifiers specifically covered, is located on our website at www.dcd.uscourts.gov.</p> <p>Redaction Request due 6/4/2019. Redacted Transcript Deadline set for 6/14/2019. Release of Transcript Restriction set for 8/12/2019.(wz) (Entered: 05/14/2019)</p>
05/17/2019	<u>34</u>	AFFIDAVIT <i>Second Supplemental Declaration of William S. Consovoy</i> by DJT HOLDINGS LLC, DONALD J. TRUMP REVOCABLE TRUST, DONALD J. TRUMP, TRUMP CORPORATION, TRUMP OLD POST OFFICE LLC, TRUMP ORGANIZATION LLC, TRUMP ORGANIZATION, INC.. (Consovoy, William) (Entered: 05/17/2019)
05/20/2019	<u>35</u>	MEMORANDUM OPINION entering judgment in favor of the House Oversight Committee and against Plaintiffs. Please see the attached Memorandum Opinion for additional details. Signed by Judge Amit P. Mehta on 05/20/2019. (lcapm3) Modified document type on 5/21/2019 (zjd). (Entered: 05/20/2019)
05/20/2019	<u>36</u>	ORDER. For the reasons stated in the <u>35</u> Memorandum Opinion, the court enters judgment in favor of the House Oversight Committee and against Plaintiffs. Please see the attached Order for further details. Signed by Judge Amit P. Mehta on 05/20/2019. (lcapm3) (Entered: 05/20/2019)
05/21/2019	<u>37</u>	NOTICE OF APPEAL TO DC CIRCUIT COURT as to <u>35</u> Order, <u>36</u> Order on Motion for Preliminary Injunction, by DJT HOLDINGS LLC, DONALD J. TRUMP REVOCABLE TRUST, DONALD J. TRUMP, TRUMP CORPORATION, TRUMP OLD POST OFFICE LLC, TRUMP ORGANIZATION LLC, TRUMP ORGANIZATION, INC.. Filing fee \$ 505, receipt number 0090–6135794. Fee Status: Fee Paid. Parties have been notified. (Consovoy, William) (Entered: 05/21/2019)

05/21/2019	<u>38</u>	Transmission of the Notice of Appeal, OrderAppealed (Memorandum Opinion), and Docket Sheet to US Court of Appeals. The Court of Appeals fee was paid this date re <u>37</u> Notice of Appeal to DC Circuit Court. (jf) (Entered: 05/21/2019)
05/21/2019		USCA Case Number 19-5142 for <u>37</u> Notice of Appeal to DC Circuit Court, filed by DONALD J. TRUMP REVOCABLE TRUST, DONALD J. TRUMP, TRUMP CORPORATION, TRUMP ORGANIZATION LLC, TRUMP OLD POST OFFICE LLC, TRUMP ORGANIZATION, INC., DJT HOLDINGS LLC. (zrdj) (Entered: 05/22/2019)
05/21/2019	<u>40</u>	MOTION to Delay Decision by DUANE MORLEY COX (jf) (Entered: 05/30/2019)
05/28/2019	<u>39</u>	MOTION to Consolidate Related Cases For Trial by HOMER DOUGLAS COBB, IV. "LET THIS BE FILED" signed by Judge Amit P. Mehta on 05/28/2019 (jf) (Entered: 05/30/2019)
05/30/2019		MINUTE ORDER denying <u>39</u> Motion to Consolidate Related Cases for Trial as moot. Signed by Judge Amit P. Mehta on 05/30/2019. (lcapm3) (Entered: 05/30/2019)
05/31/2019		MINUTE ORDER denying <u>40</u> Motion to Delay Decision as moot. Signed by Judge Amit P. Mehta on 05/31/2019. (lcapm3) (Entered: 05/31/2019)

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

DONALD J. TRUMP,
1600 Pennsylvania Avenue NW
Washington, D.C. 20500,

THE TRUMP ORGANIZATION, INC.,
TRUMP ORGANIZATION LLC,
THE TRUMP CORPORATION,
DJT HOLDINGS LLC,
THE DONALD J. TRUMP REVOCABLE
TRUST,
725 Fifth Avenue
New York, NY 10022,

TRUMP OLD POST OFFICE LLC,
1100 Pennsylvania Avenue NW
Washington, D.C. 20004,

Civil Action No. _____

Plaintiffs,

v.

ELIJAH E. CUMMINGS, in his official capacity
as Chairman of the House Committee on
Oversight and Reform,
PETER KENNY, in his official capacity as
Chief Investigative Counsel of the House
Committee on Oversight and Reform,
2157 Rayburn House Office Building
Washington, D.C. 20515,

MAZARS USA LLP,
135 West 50th Street
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Defendants.

COMPLAINT

Plaintiffs bring this action against Defendants for declaratory and injunctive relief and allege
as follows:

INTRODUCTION

1. The Democrat Party, with its newfound control of the U.S. House of Representatives, has declared all-out political war against President Donald J. Trump. Subpoenas are their weapon of choice.

2. Democrats are using their new control of congressional committees to investigate every aspect of President Trump's personal finances, businesses, and even his family. Instead of working with the President to pass bipartisan legislation that would actually benefit Americans, House Democrats are singularly obsessed with finding something they can use to damage the President politically. They have issued more than 100 subpoenas and requests to anyone with even the most tangential connection to the President.

3. This case involves one of those subpoenas. Last week, Defendant Elijah E. Cummings invoked his authority as Chairman of the House Oversight Committee to subpoena Mazars USA LLP—the longtime accountant for President Trump and several Trump entities (all Plaintiffs here). Chairman Cummings asked Mazars for financial statements, supporting documents, and communications about Plaintiffs over an eight-year period—mostly predating the President's time in office.

4. Chairman Cummings requested this information because Michael Cohen—a felon who has pleaded guilty to lying to Congress—told the House Oversight Committee that the President had misrepresented his net worth while he was a private citizen. The Committee, according to Chairman Cummings, now needs to “investigate whether the President may have engaged in illegal conduct.” The Chairman claims he can do so because the Oversight Committee can supposedly investigate “any matter at any time.”

5. Chairman Cummings has ignored the constitutional limits on Congress’ power to investigate. Article I of the Constitution does not contain an “Investigations Clause” or an “Oversight

Clause.” It gives Congress the power to enact certain *legislation*. Accordingly, investigations are legitimate only insofar as they further some legitimate legislative purpose. No investigation can be an end in itself. And Congress cannot use investigations to exercise powers that the Constitution assigns to the executive or judicial branch.

6. Chairman Cummings’ subpoena of Mazars lacks a legitimate legislative purpose. There is no possible legislation at the end of this tunnel; indeed, the Chairman does not claim otherwise. With this subpoena, the Oversight Committee is instead assuming the powers of the Department of Justice, investigating (dubious and partisan) allegations of illegal conduct by private individuals outside of government. Its goal is to expose Plaintiffs’ private financial information for the sake of exposure, with the hope that it will turn up something that Democrats can use as a political tool against the President now and in the 2020 election.

7. Because Chairman Cummings’ subpoena to Mazars threatens to expose Plaintiffs’ confidential information and lacks “a legitimate legislative purpose,” this Court has the power to declare it invalid and to enjoin its enforcement. *Eastland v. U.S. Servicemen’s Fund*, 421 U.S. 491, 501 n.14 (1975) (endorsing *U.S. Servicemen’s Fund v. Eastland*, 488 F.2d 1252, 1259-60 (D.C. Cir. 1973)). Plaintiffs are entitled to that relief.

PARTIES

8. Plaintiff Donald J. Trump is the 45th President of the United States. President Trump brings this suit solely in his capacity as a private citizen.

9. Plaintiff The Trump Organization, Inc. is a New York corporation with its principal place of business at 725 Fifth Avenue, New York, NY 10022.

10. Plaintiff Trump Organization LLC is a New York limited liability company with its principal place of business at 725 Fifth Avenue, New York, NY 10022.

11. Plaintiff The Trump Corporation is a New York corporation with its principal place of business at 725 Fifth Avenue, New York, NY 10022.

12. Plaintiff DJT Holdings LLC is a Delaware limited liability company with its principal place of business at 725 Fifth Avenue, New York, NY 10022.

13. Plaintiff The Donald J. Trump Revocable Trust is a trust created and operating under the laws of New York.

14. Plaintiff Trump Old Post Office LLC is a Delaware limited liability company with its principal place of business at 1100 Pennsylvania Avenue NW, Washington, D.C. 20004.

15. Defendant Elijah E. Cummings is the U.S. Representative for Maryland's 7th District and the Chairman of the House Committee on Oversight and Reform. He is a member of the Democrat party. Chairman Cummings issued the subpoena in question and is sued in his official capacity.

16. Defendant Peter Kenny is the Chief Investigative Counsel for the House Committee on Oversight and Reform. He signed and served the subpoena in question and is sued in his official capacity.

17. Defendant Mazars USA LLP is a New York limited liability partnership with its principal executive office at 135 West 50th Street, New York, NY 10020. Mazars is an accounting firm and the recipient of Chairman Cummings' subpoena. Mazars is a defendant to ensure that Plaintiffs can obtain effective relief.

JURISDICTION & VENUE

18. This Court has subject-matter jurisdiction because this case arises under the Constitution and laws of the United States. 28 U.S.C. §§1331, 2201.

19. Venue is proper because Chairman Cummings officially resides in the District. 28 U.S.C. §1391.

BACKGROUND

I. Challenges to Congressional Subpoenas

20. Not infrequently, federal courts adjudicate the legality of congressional subpoenas. Most such cases follow a familiar fact pattern: Congress issues a subpoena, the target does not comply, Congress tries to force compliance in federal court, and the target raises the illegality of the subpoena as a defense.

21. But this defensive posture is not the only way to challenge a congressional subpoena. When Congress “seeks information directly from a party,” that party “can resist and thereby test the subpoena.” *Eastland*, 421 U.S. at 501 n.14. But when Congress “seeks that same information from a third person,” this option is not available; the third party might not have an interest in protecting the information or resisting the subpoena, and its “compliance” with the subpoena “could frustrate any judicial inquiry.” *Id.* For that reason, the law allows the person whose information will be exposed to sue in federal court for an “injunction or declaratory judgment” to block the subpoena’s “issuance, service on, or enforcement against” the “third party.” *Eastland*, 488 F.2d at 1259. The key question in such a case is “whether a legitimate legislative purpose is present.” *Eastland*, 421 U.S. at 501.

22. The “legitimate legislative purpose” requirement stems directly from the Constitution. “The powers of Congress … are dependent solely on the Constitution,” and “no express power in that instrument” allows Congress to investigate individuals or to issue compulsory process. *Kilbourn v. Thompson*, 103 U.S. 168, 182-89 (1880). The Constitution instead permits Congress to enact certain kinds of *legislation*. See, e.g., Art. I, §8. Thus, Congress’ power to investigate “is justified solely as an adjunct to the legislative process.” *Watkins*, 354 U.S. at 197. “Congress is not invested with a general power to inquire into private affairs. The subject of any inquiry always must be one on which legislation could be had.” *Eastland*, 421 U.S. at 504 n.15 (cleaned up); see also *Quinn v. United States*, 349 U.S. 155, 161 (1955) (“[T]he power to investigate” does not “extend to an area in which Congress is forbidden to legislate.”).

23. “Oversight” and “transparency,” in a vacuum, are not legitimate legislative purposes that can justify subpoenaing a private citizen. For more than a century, in fact, the Supreme Court has been quite “sure” that neither the House nor Senate “possesses the general power of making inquiry into the private affairs of the citizen.” *Kilbourn*, 103 U.S. at 190. “[T]here is no congressional power to expose for the sake of exposure.” *Watkins*, 354 U.S. at 200. “No inquiry is an end in itself; it must be related to, and in furtherance of, a legitimate task of the Congress.” *Id.* at 187.

24. Additionally, because Congress must have a legitimate *legislative* purpose, it cannot use subpoenas to exercise “any of the powers of law enforcement.” *Quinn*, 349 U.S. at 161. Those powers “are assigned under our Constitution to the Executive and the Judiciary.” *Id.* Put simply, Congress is not “a law enforcement or trial agency,” and congressional investigations conducted “for the personal aggrandizement of the investigators” or “to ‘punish’ those investigated” are “indefensible.” *Watkins*, 354 U.S. at 187. Our tripartite system of separated powers requires that “any one of the[] branches shall not be permitted to encroach upon the powers confided to the others, but that each shall by the law of its creation be limited to the exercise of the powers appropriate to its own department and no other.” *Kilbourn*, 103 U.S. at 190-91.

25. Finally, when a subpoena is issued by a single committee, any legislative purpose is not legitimate unless it falls within that committee’s jurisdiction. “The theory of a committee inquiry is that the committee members are serving as the representatives of the parent assembly in collecting information for a legislative purpose.” *Watkins*, 354 U.S. at 200. Congress therefore must “spell out that group’s jurisdiction and purpose with sufficient particularity ... in the authorizing resolution,” which “is the committee’s charter.” *Id.* at 201. The committee “must conform strictly to the resolution.” *Exxon Corp. v. FTC*, 589 F.2d 582, 592 (D.C. Cir. 1978). And when an investigation is “novel” or “expansive,” courts will construe the committee’s jurisdiction “narrowly.” *Tobin v. United States*, 306 F.2d 270, 275 (D.C. Cir. 1962).

II. House Democrats' Campaign of Abusive Investigations

26. After the 2018 midterm elections, the Democrat party won a majority of seats in the House. Every House committee in the current Congress is thus chaired by a Democrat.

27. On the night of the election, soon-to-be Speaker Nancy Pelosi announced that “tomorrow will be a new day in America” because House Democrats will use their new majority to enact “checks and balances to the Trump administration.” And “subpoena power,” she explained a few days later, is “a great arrow to have in your quiver.” Chairman Cummings echoed the Speaker’s sentiments, stating that “it’s a new day” and that “[President Trump] has to be accountable.” He added that “we’ve got to address this issue of exposing President Trump.” “Congress is going to force transparency on this president,” another Democrat congressional aide repeated. “Once there is transparency, I am sure there are going to be a lot of questions that flow from that.”

28. The Democrats’ statements about “checks and balances” and “transparency” were not referring to legislation. Instead, according to news outlets that interviewed party leaders and aides shortly after the election, House Democrats meant that they were going to spend the next two years launching a “fusillade” of subpoenas in order to “drown Trump with investigations,” “turn Trump’s life upside down,” and “make Trump’s life a living hell.”

29. Prominent Democrats were quite candid about their party’s mission. Representative John Yarmuth, now chair of the House Budget Committee, stated that the new House majority would be “brutal” for President Trump: “We’re going to have to build an air traffic control tower to keep track of all the subpoenas flying from here to the White House.” Another senior Democrat official revealed that, from November 2018 to January 2019, House Democrats were busy preparing a “subpoena cannon” to fire at President Trump based on a “wish-list” of nearly 100 investigatory topics. Representative Nita Lowey, now chair of the House Appropriations Committee, confirmed a

long list of topics that House Democrats planned to investigate and stated, “We have our boxing gloves on. I’m ready. And so is Nancy.”

30. The Democrats’ “focus,” according to then–Minority Whip Steny Hoyer, would be examining “the President in terms of what [business] interests he has” from his time as a private citizen. That focus would include the President’s family. Future Oversight Committee member Alexandria Ocasio-Cortez, for instance, responded to a joke by the President’s son Donald Trump Jr. with an explicit threat: “Please keep it coming Jr – it’s definitely a ‘very, very large brain’ idea to troll a member of a body that will have subpoena power in a month.” The Democrats want this personal information in the hopes they will find something they can use to score political points against the President leading up to the 2020 election.

31. House Democrats are executing their plan in earnest. Recently, several House committees issued a flurry of subpoenas and requests for information about the President’s family, personal finances, and businesses. Just one request by Chairman Nadler of the House Judiciary Committee, for example, asked 81 different individuals for information about President Trump.

32. A few days ago, House Republicans discovered that Chairman Cummings had executed secret memoranda of understanding with Chairman Adam Schiff of the House Permanent Select Committee on Intelligence and Chairwoman Maxine Waters of the House Financial Services Committee. In the memoranda, the Chairs agreed to coordinate their subpoenas in order to inflict maximum political damage on President Trump. According to one congressional official with knowledge of the memoranda, they are “an agreement to conspire and coordinate their efforts to attack and investigate POTUS” by targeting his business and financial records.

33. Last Monday, Chairman Cummings sent one such subpoena to Mazars—Plaintiffs’ longtime accountant. That subpoena is the subject of this lawsuit.

III. Chairman Cummings' Subpoena to Mazars

34. The Mazars subpoena is based on one of the worst examples of the House Democrats' zeal to attack President Trump under the guise of investigations: Michael Cohen's testimony to the House Oversight Committee on February 27, 2019.

35. The Cohen hearing was a partisan stunt, not a good-faith effort to obtain accurate testimony from a reliable witness. Cohen is a convicted liar; before his February hearing, he had pleaded guilty to several federal crimes including making false statements to Congress. Cohen's testimony was orchestrated by his lawyer Lanny Davis, a political operative for the Democrat party, and Cohen met extensively with House Democrats about the contents of his testimony before he gave it. The reason that Cohen testified, moreover, is so Chairman Cummings and other Democrats would support his request for leniency during his federal sentencing. And according to Ranking Member Jim Jordan, Cohen told several additional lies to Congress in his February testimony.

36. Nevertheless, Chairman Cummings seized on Cohen's allegation that certain financial statements—which Mazars had prepared for President Trump while he was a private citizen—contained inaccuracies. Citing Cohen's testimony, Chairman Cummings wrote to Mazars on March 20, 2019, asking it to produce the following information about President Trump:

With respect to Donald J. Trump, Donald J. Trump Revocable Trust, the Trump Organization Inc., the Trump Organization LLC, the Trump Corporation, DJT Holdings LLC, the Trump Old Post Office LLC, the Trump Foundation, and any parent, subsidiary, affiliate, joint venture, predecessor, or successor of the foregoing:

1. All statements of financial condition, annual statements, periodic financial reports and independent auditors' reports prepared, compiled, reviewed, or audited by Mazars USA LLP or its predecessor, WeiserMazars LLP;
2. Without regard to time, all engagement agreements or contracts related to the preparation, compilation, review, or auditing of the items described in Request Number 1;
3. All underlying, supporting, or source documents and records used in the preparation, compilation, review, or auditing of items described in Request

Number 1, or any summaries of such documents and records relied upon, or any requests for such documents and records; and

4. All memoranda, notes, and communications related to the preparation, compilation, review, or auditing of the items described in Request Number 1, including, but not limited to:
 - a. all communications between Donald Bender and Donald J. Trump or any employee or representative of the Trump Organization; and
 - b. all communications related to potential concerns that records, documents, explanations, or other information, including significant judgments, provided by Donald J. Trump or other individuals from the Trump Organization, were incomplete, inaccurate, or otherwise unsatisfactory.

Unless otherwise noted, the time period covered by this request is from January 1, 2009, to the present.

37. Chairman Cummings did not consult with Committee Republicans before sending his request to Mazars. When they discovered the request, Representatives Jordan and Mark Meadows—the Ranking Member of the Oversight Committee and the Subcommittee on Government Operations, respectively—objected. They wrote Mazars informing it that, because Chairman Cummings’ request seeks “information and material about President Trump’s personal finances … well before [he] was even a candidate for federal office,” it “does not appear to have a valid legislative purpose and instead seems to seek information to embarrass a private individual.” The Ranking Members repeated their concerns in a letter to Chairman Cummings, explaining that the Chairman’s request “seems to examine facts relating to a transaction that never materialized” and other “information [from] … well before the President was even a candidate.” This is not an attempt at “legitimate oversight,” they added; its only purpose is “to embarrass President Trump” and to maintain House Democrats’ “repeated partisan attacks on the President.”

38. Mazars, through its outside counsel, wrote back to Chairman Cummings on March 27. Mazars informed Chairman Cummings that it “cannot voluntarily turn over the documents.”

39. Mazars was correct. Under its contract with Plaintiffs, Mazars must abide by the American Institute of CPAs' ethical rules, which prohibit accountants from "disclos[ing] any confidential client information without the specific consent of the client." AICPA Code of Prof'l Conduct §1.700.001.01. New York law imposes the same duty. *See* 8 N.Y.C.R.R. §29.10(c) ("[U]nprofessional conduct" by accountants includes the "revealing of personally identifiable facts, data or information obtained in a professional capacity without the prior consent of the client."). A congressional subpoena does not relieve Mazars from these duties, unless the subpoena is "validly issued and enforceable." AICPA Code §1.700.001.02.

40. Chairman Cummings thus tried to craft a subpoena that would hold up in court. Sensing this would be a tall order, the Chairman waited until the House left for its Easter break to circulate a memorandum about the subpoena and then to issue it. This maneuver allowed him to subpoena Mazars without first conferring with Committee Republicans and having to defend his reasoning at an open meeting of the Oversight Committee.

41. Chairman Cummings' memorandum, dated April 12, 2019, again cited Cohen's testimony as the basis for subpoenaing Mazars. The Chairman also suggested that "news reports have raised additional concerns regarding the President's financial statements and representations." But the first "news report"—a blog post from MSNBC's Rachel Maddow Show—merely repeated Cohen's testimony. And the second "news report"—a March 2019 article from the Washington Post—quoted legal experts who explained why the financial statements did not break any laws. The Chairman's memorandum nonetheless stated that the Committee needed to investigate "whether the President has been accurate in his financial reporting."

42. Ranking Member Jordan again objected to Chairman Cummings' planned subpoena. In an April 15 letter and memorandum, the Ranking Member explained that the subpoena "is an unpreceded abuse of the Committee's subpoena authority to target and expose the private financial

information of the President of the United States” for “political gain.” The subpoena is an impermissible attempt to “expose the private affairs of individuals,” the Ranking Member explained, because “Chairman Cummings has cited no specific law or legislative proposal for which he requires eight years of sensitive, personal financial information about President Trump.” Ranking Member Jordan also noted his deep concern that Chairman Cummings would selectively leak whatever information he obtained from Mazars, citing examples where the Chairman had strategically leaked similar sensitive information in the past.

43. Despite the Ranking Members’ objections, Chairman Cummings issued the subpoena to Mazars that same day. The subpoena was identical to the Chairman’s initial request for information, except that it asked for information from “2011 through 2018” instead of “2009 to the present.” The subpoena currently orders Mazars to comply by noon on April 29, 2019.

44. Ranking Member Jordan responded to the subpoena in a letter dated April 17. The subpoena, he explained, “is an act of raw partisan politics meant only to further your obsession with attacking the President of the United States.” Chairman Cummings “did not dispute the fact that [his] subpoena to Mazars is part of a coordinated and carefully managed campaign to use congressional oversight for political gain,” the Ranking Member observed, and never “articulated how the sensitive, personal financial information [he] seek[s] will advance a legitimate legislative purpose.”

45. Plaintiffs bring this suit to challenge the validity and enforceability of Chairman Cummings’ subpoena. Now that the subpoena has issued, Mazars faces an unfair choice: ignore the subpoena and risk contempt of Congress, or comply with the subpoena and risk liability to Plaintiffs if the subpoena is invalid or unenforceable. To resolve these conflicting commands, the D.C. Circuit has instructed third-party accountants like Mazars to hold onto the subpoenaed materials until the dispute over the subpoena’s validity is finally resolved in court: “[AICPA] Rule 301 … explains that it ‘shall not be construed … to affect in any way the member’s obligation to comply with a validly issued

and enforceable subpoena or summons.’ But [the client] challenges the enforceability of a subpoena Thus [the accountant] c[an] refuse to produce the documents, thereby allowing [the client to litigate the subpoena], without violating its obligation to comply with enforceable subpoenas.” *United States v. Deloitte LLP*, 610 F.3d 129, 142 (D.C. Cir. 2010). Congress thus cannot take any action against Mazars until this litigation is finally resolved.

CLAIM FOR RELIEF

46. Plaintiffs incorporate all their prior allegations.
47. Chairman Cummings’ subpoena is invalid and unenforceable because it has no legitimate legislative purpose.
48. The subpoena seeks to investigate events that occurred while President Trump was a private citizen, years before he was even a candidate for public office.
49. The subpoena seeks to investigate events that could not possibly lead to legislation within the Oversight Committee’s statutory jurisdiction and constitutional authority.
50. The subpoena is an attempt to investigate and adjudicate possible violations of federal law by private individuals—law-enforcement powers that only the executive and judicial branches can exercise.

WHEREFORE, Plaintiffs ask this Court to enter judgment in their favor and to provide the following relief:

- a. A declaratory judgment that Chairman Cummings’ subpoena is invalid and unenforceable;
- b. A permanent injunction quashing Chairman Cummings’ subpoena;
- c. A permanent injunction prohibiting Chairman Cummings and Mr. Kenny from taking any actions to enforce the subpoena, from imposing sanctions for noncompliance with the subpoena, and from inspecting, using, maintaining, or disclosing any information obtained as a result of the subpoena;

- d. A temporary restraining order and preliminary injunction prohibiting Mazars from producing the requested information, and prohibiting Chairman Cummings and Mr. Kenny from taking any actions to enforce the subpoena, until the subpoena's validity has been finally adjudicated on the merits;
- e. Plaintiffs' reasonable costs and expenses, including attorneys' fees; and
- f. All other preliminary and permanent relief to which Plaintiffs are entitled.

Respectfully submitted,

Dated: April 22, 2019

Stefan C. Passantino (D.C. Bar #480037)
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s/ William S. Consoroy
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Counsel for President Donald J. Trump

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

DONALD J. TRUMP; THE TRUMP
ORGANIZATION, INC.; TRUMP
ORGANIZATION LLC; THE TRUMP
CORPORATION; DJT HOLDINGS LLC;
THE DONALD J. TRUMP REVOCABLE
TRUST; and TRUMP OLD POST OFFICE
LLC,

Plaintiffs,

v.

ELIJAH E. CUMMINGS, in his official capacity
as Chairman of the House Committee on
Oversight and Reform; PETER KENNY, in his
official capacity as Chief Investigative Counsel
of the House Committee on Oversight and
Reform; and MAZARS USA LLP,

Defendants.

DECLARATION OF WILLIAM S. CONSOVOY

1. I am an attorney at the law firm Consovoy McCarthy Park PLLC and counsel for plaintiff President Donald J. Trump in his personal capacity.
2. I am over the age of eighteen and under no mental disability or impairment. I have personal knowledge of the following facts and, if called as a witness, would competently testify to them.
3. Exhibit A to this declaration is a true and accurate copy of the April 15, 2019 subpoena from the House Committee on Oversight and Reform to Mazars USA LLP.

Per 28 U.S.C. §1746, I declare under penalty of perjury that the above is true and correct to the best of my knowledge.

Executed on April 22, 2019.

s/ William S. Consovoy

Exhibit A

SUBPOENA

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES OF THE CONGRESS OF THE UNITED STATES OF AMERICA

To Mazars USA LLP

You are hereby commanded to be and appear before the
Committee on Oversight and Reform ▼

of the House of Representatives of the United States at the place, date, and time specified below.

- to produce the things identified on the attached schedule** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of production: 2157 Rayburn House Office Building, Washington DC 20515

Date: April 29, 2019

Time: 12:00 (noon)

- to testify at a deposition** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: _____

Date: _____

Time: _____

- to testify at a hearing** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: _____

Date: _____

Time: _____

To any authorized staff member or the U.S. Marshals Service

to serve and make return.

Witness my hand and the seal of the House of Representatives of the United States, at
the city of Washington, D.C. this 15th day of April, 2019.



Brian C. Corman
Chairman or Authorized Member

Attest:


Cheryl L. John

Clerk

PROOF OF SERVICE

Subpoena for Mazars USA LLP

Address c/o Jerry Bernstein, Esq., BlankRome LLP

405 Lexington Ave., New York, NY 10174

before the Committee on Oversight and Reform

*U.S. House of Representatives
116th Congress*

Served by (print name) Peter Kenny

Title Chief Investigative Counsel, Committee on Oversight and Reform

Manner of service Email to Jerry Bernstein, BlankRome LLP, Counsel to Mazars USA LLP

Date April 15, 2019

Signature of Server

Address 2157 Rayburn House Office Building, Washington, D.C. 20515

SCHEDULE A

With respect to Donald J. Trump, Donald J. Trump Revocable Trust, the Trump Organization Inc., the Trump Organization LLC, the Trump Corporation, DJT Holdings LLC, the Trump Old Post Office LLC, the Trump Foundation, and any parent, subsidiary, affiliate, joint venture, predecessor, or successor of the foregoing:

1. All statements of financial condition, annual statements, periodic financial reports, and independent auditors' reports prepared, compiled, reviewed, or audited by Mazars USA LLP or its predecessor, WeiserMazars LLP;
2. Without regard to time, all engagement agreements or contracts related to the preparation, compilation, review, or auditing of the documents described in Item Number 1;
3. All underlying, supporting, or source documents and records used in the preparation, compilation, review, or auditing of documents described in Item Number 1, or any summaries of such documents and records relied upon, or any requests for such documents and records; and
4. All memoranda, notes, and communications related to the preparation, compilation, review, or auditing of the documents described in Item Number 1, including, but not limited to:
 - a. all communications between Donald Bender and Donald J. Trump or any employee or representative of the Trump Organization; and
 - b. all communications related to potential concerns that records, documents, explanations, or other information, including significant judgments, provided by Donald J. Trump or other individuals from the Trump Organization, were incomplete, inaccurate, or otherwise unsatisfactory.

Unless otherwise noted, the time period covered by this subpoena includes calendar years 2011 through 2018.

Schedule Instructions

1. In complying with this subpoena, you are required to produce all responsive documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, and representatives acting on your behalf. Produce all documents that you have a legal right to obtain, that you have a right to copy, or to which you have access, as well as documents that you have placed in the temporary possession, custody, or control of any third party.
2. Subpoenaed documents, and all documents reasonably related to the subpoenaed documents, should not be destroyed, altered, removed, transferred, or otherwise made inaccessible to the Committee.
3. In the event that any entity, organization, or individual denoted in this subpoena is or has been known by any name other than that herein denoted, the subpoena shall be read also to include that alternative identification.
4. The Committee's preference is to receive documents in electronic form (i.e., CD, memory stick, thumb drive, or secure file transfer) in lieu of paper productions.
5. Documents produced in electronic format should be organized, identified, and indexed electronically.
6. Electronic document productions should be prepared according to the following standards:
 - a. The production should consist of single page Tagged Image File ("TIF"), files accompanied by a Concordance-format load file, an Opticon reference file, and a file defining the fields and character lengths of the load file.
 - b. Document numbers in the load file should match document Bates numbers and TIF file names.
 - c. If the production is completed through a series of multiple partial productions, field names and file order in all load files should match.
 - d. All electronic documents produced to the Committee should include the following fields of metadata specific to each document, and no modifications should be made to the original metadata:

BEGDOC, ENDDOC, TEXT, BEGATTACH, ENDATTACH, PAGECOUNT, CUSTODIAN, RECORDTYPE, DATE, TIME, SENTDATE, SENTTIME, BEGINDATE, BEGINTIME, ENDDATE, ENDTIME, AUTHOR, FROM, CC, TO, BCC, SUBJECT, TITLE, FILENAME, FILEEXT, FILESIZE, DATECREATED, TIMECREATED, DATELASTMOD, TIMELASTMOD,

INTMSGID, INTMSGHEADER, NATIVELINK, INTFILPATH, EXCEPTION, BEGATTACH.

7. Documents produced to the Committee should include an index describing the contents of the production. To the extent more than one CD, hard drive, memory stick, thumb drive, zip file, box, or folder is produced, each should contain an index describing its contents.
8. Documents produced in response to this subpoena shall be produced together with copies of file labels, dividers, or identifying markers with which they were associated when the subpoena was served.
9. When you produce documents, you should identify the paragraph(s) in the subpoena schedule to which the documents respond.
10. The fact that any other person or entity also possesses non-identical or identical copies of the same documents shall not be a basis to withhold any information.
11. The pendency of or potential for litigation shall not be a basis to withhold any information.
12. In accordance with 5 U.S.C. § 552(d), the Freedom of Information Act (FOIA) and any statutory exemptions to FOIA shall not be a basis for withholding any information.
13. Pursuant to 5 U.S.C. § 552a(b)(9), the Privacy Act shall not be a basis for withholding information.
14. If compliance with the subpoena cannot be made in full by the specified return date, compliance shall be made to the extent possible by that date. An explanation of why full compliance is not possible shall be provided along with any partial production.
15. In the event that a document is withheld on the basis of privilege, provide a privilege log containing the following information concerning any such document: (a) every privilege asserted; (b) the type of document; (c) the general subject matter; (d) the date, author, addressee, and any other recipient(s); (e) the relationship of the author and addressee to each other; and (f) the basis for the privilege(s) asserted. If a claimed privilege applies to only a portion of any document, that portion only should be withheld and the remainder of the document should be produced. As used herein, "claim of privilege" includes, but is not limited to, any claim that a document either may or must be withheld from production pursuant to any statute, rule, or regulation.
16. In complying with the subpoena, be apprised that (unless otherwise determined by the Committee) the Committee does not recognize: any purported non-disclosure privileges associated with the common law including, but not limited to, the deliberative-process privilege, the attorney-client privilege, and attorney work product protections; any purported privileges or protections from disclosure under the Freedom of Information Act

or the Privacy Act; or any purported contractual privileges, such as non-disclosure agreements.

17. Any assertion by a subpoena recipient of any such non-constitutional legal bases for withholding documents or other materials, for refusing to answer any deposition question, or for refusing to provide hearing testimony, shall be of no legal force and effect and shall not provide a justification for such withholding or refusal, unless and only to the extent that the Committee (or the chair of the Committee, if authorized) has consented to recognize the assertion as valid.
18. If any document responsive to this subpoena was, but no longer is, in your possession, custody, or control, identify the document (by date, author, subject, and recipients), and explain the circumstances under which the document ceased to be in your possession, custody, or control.
19. If a date or other descriptive detail set forth in this subpoena referring to a document is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the subpoena, produce all documents that would be responsive as if the date or other descriptive detail were correct.
20. This subpoena is continuing in nature and applies to any newly-discovered information. Any record, document, compilation of data, or information not produced because it has not been located or discovered by the return date shall be produced immediately upon subsequent location or discovery.
21. All documents shall be Bates-stamped sequentially and produced sequentially.
22. Two sets of each production shall be delivered, one set to the Majority Staff and one set to the Minority Staff. When documents are produced to the Committee, production sets shall be delivered to the Majority Staff in Room 2157 of the Rayburn House Office Building and the Minority Staff in Room 2105 of the Rayburn House Office Building.
23. Upon completion of the production, submit a written certification, signed by you or your counsel, stating that: (1) a diligent search has been completed of all documents in your possession, custody, or control that reasonably could contain responsive documents; and (2) all documents located during the search that are responsive have been produced to the Committee.

Definitions

1. The term "document" means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, data, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, communications, electronic mail (email), contracts, cables, notations of any

type of conversation, telephone call, meeting or other inter-office or intra-office communication, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, microfiche, microfilm, videotape, recordings and motion pictures), and electronic, mechanical, and electric records or representations of any kind (including, without limitation, tapes, cassettes, disks, and recordings) and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape, or otherwise. A document bearing any notation not a part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.

2. The term "communication" means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether in a meeting, by telephone, facsimile, mail, releases, electronic message including email (desktop or mobile device), text message, instant message, MMS or SMS message, message application, or otherwise.
3. The terms "and" and "or" shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this subpoena any information that might otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neutral genders.
4. The term "including" shall be construed broadly to mean "including, but not limited to."
5. The term "Company" means the named legal entity as well as any units, firms, partnerships, associations, corporations, limited liability companies, trusts, subsidiaries, affiliates, divisions, departments, branches, joint ventures, proprietorships, syndicates, or other legal, business or government entities over which the named legal entity exercises control or in which the named entity has any ownership whatsoever.
6. The term "identify," when used in a question about individuals, means to provide the following information: (a) the individual's complete name and title; (b) the individual's business or personal address and phone number; and (c) any and all known aliases.
7. The term "related to" or "referring or relating to," with respect to any given subject, means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with, or is pertinent to that subject in any manner whatsoever.
8. The term "employee" means any past or present agent, borrowed employee, casual

employee, consultant, contractor, de facto employee, detailee, fellow, independent contractor, intern, joint adventurer, loaned employee, officer, part-time employee, permanent employee, provisional employee, special government employee, subcontractor, or any other type of service provider.

9. The term "individual" means all natural persons and all persons or entities acting on their behalf.

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

DONALD J. TRUMP; THE TRUMP
ORGANIZATION, INC.; TRUMP
ORGANIZATION LLC; THE TRUMP
CORPORATION; DJT HOLDINGS LLC;
THE DONALD J. TRUMP REVOCABLE
TRUST; and TRUMP OLD POST OFFICE
LLC,

Plaintiffs,

v.

Case No. 1:19-cv-01136-APM

MAZARS USA LLP,

Defendant,

COMMITTEE ON OVERSIGHT AND
REFORM OF THE U.S. HOUSE OF
REPRESENTATIVES,

Intervenor-Defendant.

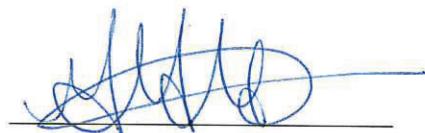
DECLARATION OF GRETA G. GAO

I, Greta G. Gao, pursuant to the provisions of 28 U.S.C. § 1746 declare and say:

1. I am Counsel on the Committee for Oversight and Reform of the U.S. House of Representatives. I have served in this capacity since January 2019.
2. Attached as Exhibit A is a true and correct copy of a Letter from the Honorable Elijah E. Cummings, Chairman of the Committee on Oversight and Reform of the U.S. House of Representatives, to Emory A. Rounds III, Director of the Office of Government Ethics, dated January 22, 2019.
3. Attached as Exhibit B is a true and correct copy of documents produced to the Committee by Michael Cohen, President Trump's former attorney, on February 27, 2019:

Donald J. Trump's Statements of Financial Condition, dated June 30, 2011 and June 30, 2012, as prepared by WeiserMazars LLP (now Mazars USA LLP), and Donald J. Trump's Summary of Net Worth as of March 31, 2013.

I declare under penalty of perjury that the foregoing is true and correct. Executed on May 1, 2019, in Washington, D.C.

A handwritten signature in blue ink, appearing to read "Greta G. Gao", is written over a horizontal line.

Greta G. Gao

Exhibit A

Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND REFORM

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

MAJORITY (202) 225-5051

MINORITY (202) 225-5074

<http://oversight.house.gov>

January 22, 2019

The Honorable Emory A. Rounds III
Director
Office of Government Ethics
1201 New York Avenue NW
Suite 500
Washington, D.C. 20005

Dear Director Rounds:

I am writing to request documents related to President Donald Trump's reporting of debts and payments to his personal attorney, Michael Cohen, to silence women alleging extramarital affairs with the President before the election.

As you know, the Ethics in Government Act requires all federal officials, including the President, to publicly disclose financial liabilities that could impact their decision-making. On May 16, 2018, after reviewing President Trump's May 2018 personal financial disclosure forms, the Acting Director of the Office of Government Ethics (OGE) at the time, David J. Apol, wrote to Deputy Attorney General Rod Rosenstein, stating:

OGE has concluded that, based on the information provided as a note to part 8, the payment made by Mr. Cohen is required to be reported as a liability. OGE has determined that the information provided in that note meets the disclosure requirements for a reportable liability under the Ethics in Government Act.¹

To assist our investigation of this matter, please provide the following documents by February 1, 2019:

1. All communications with any White House employee or any nongovernment representative for the filer related to the determination made by OGE regarding Note 3 to Part 8 of President Trump's May 2018 OGE Form 278e, as referenced in the May 16, 2018, letter to the Department of Justice; and

¹ Letter from David J. Apol, Acting Director, Office of Government Ethics, to Rod J. Rosenstein, Deputy Attorney General, Department of Justice (May 16, 2018) (online at <https://oge.app.box.com/v/OGELettertoDOJ>).

The Honorable Emory A. Rounds III
Page 2

2. All OGE materials related to the reporting of liabilities or payments made to or by Michael Cohen on President Trump's June 2017 OGE Form 278e and May 2018 OGE Form 278e.

The Committee on Oversight and Reform is the principal oversight committee of the House of Representatives and has broad authority to investigate "any matter" at "any time" under House Rule X. In addition, House Rule X, clause 3(i) specifically charges the Committee with conducting oversight of "the operation of Government activities at all levels, including the Executive Office of the President."

An attachment to this letter provides additional instructions for responding to the Committee's request. If you have any questions regarding this request, please contact my staff at (202) 225-5051.

Thank you for your prompt attention to this request.

Sincerely,



Elijah E. Cummings
Chairman

Enclosure

cc: The Honorable Jim Jordan, Ranking Member

Responding to Oversight Committee Document Requests

1. In complying with this request, produce all responsive documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, and representatives acting on your behalf. Produce all documents that you have a legal right to obtain, that you have a right to copy, or to which you have access, as well as documents that you have placed in the temporary possession, custody, or control of any third party.
2. Requested documents, and all documents reasonably related to the requested documents, should not be destroyed, altered, removed, transferred, or otherwise made inaccessible to the Committee.
3. In the event that any entity, organization, or individual denoted in this request is or has been known by any name other than that herein denoted, the request shall be read also to include that alternative identification.
4. The Committee's preference is to receive documents in electronic form (i.e., CD, memory stick, thumb drive, or secure file transfer) in lieu of paper productions.
5. Documents produced in electronic format should be organized, identified, and indexed electronically.
6. Electronic document productions should be prepared according to the following standards:
 - a. The production should consist of single page Tagged Image File ("TIF"), files accompanied by a Concordance-format load file, an Opticon reference file, and a file defining the fields and character lengths of the load file.
 - b. Document numbers in the load file should match document Bates numbers and TIF file names.
 - c. If the production is completed through a series of multiple partial productions, field names and file order in all load files should match.
 - d. All electronic documents produced to the Committee should include the following fields of metadata specific to each document, and no modifications should be made to the original metadata:

BEGDOC, ENDDOC, TEXT, BEGATTACH, ENDATTACH, PAGECOUNT, CUSTODIAN, RECORDTYPE, DATE, TIME, SENTDATE, SENTTIME, BEGINDATE, BEGINTIME, ENDDATE, ENDTIME, AUTHOR, FROM, CC, TO, BCC, SUBJECT, TITLE, FILENAME, FILEEXT, FILESIZE, DATECREATED, TIMECREATED, DATELASTMOD, TIMELASTMOD,

INTMSGID, INTMSGHEADER, NATIVELINK, INTFILPATH, EXCEPTION, BEGATTACH.

7. Documents produced to the Committee should include an index describing the contents of the production. To the extent more than one CD, hard drive, memory stick, thumb drive, zip file, box, or folder is produced, each should contain an index describing its contents.
8. Documents produced in response to this request shall be produced together with copies of file labels, dividers, or identifying markers with which they were associated when the request was served.
9. When you produce documents, you should identify the paragraph(s) or request(s) in the Committee's letter to which the documents respond.
10. The fact that any other person or entity also possesses non-identical or identical copies of the same documents shall not be a basis to withhold any information.
11. The pendency of or potential for litigation shall not be a basis to withhold any information.
12. In accordance with 5 U.S.C. § 552(d), the Freedom of Information Act (FOIA) and any statutory exemptions to FOIA shall not be a basis for withholding any information.
13. Pursuant to 5 U.S.C. § 552a(b)(9), the Privacy Act shall not be a basis for withholding information.
14. If compliance with the request cannot be made in full by the specified return date, compliance shall be made to the extent possible by that date. An explanation of why full compliance is not possible shall be provided along with any partial production.
15. In the event that a document is withheld on the basis of privilege, provide a privilege log containing the following information concerning any such document: (a) every privilege asserted; (b) the type of document; (c) the general subject matter; (d) the date, author, addressee, and any other recipient(s); (e) the relationship of the author and addressee to each other; and (f) the basis for the privilege(s) asserted.
16. If any document responsive to this request was, but no longer is, in your possession, custody, or control, identify the document (by date, author, subject, and recipients), and explain the circumstances under which the document ceased to be in your possession, custody, or control.
17. If a date or other descriptive detail set forth in this request referring to a document is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, produce all documents that would be responsive as if the date or other descriptive detail were correct.

18. This request is continuing in nature and applies to any newly-discovered information. Any record, document, compilation of data, or information not produced because it has not been located or discovered by the return date shall be produced immediately upon subsequent location or discovery.
19. All documents shall be Bates-stamped sequentially and produced sequentially.
20. Two sets of each production shall be delivered, one set to the Majority Staff and one set to the Minority Staff. When documents are produced to the Committee, production sets shall be delivered to the Majority Staff in Room 2157 of the Rayburn House Office Building and the Minority Staff at a room of their designation.
21. Upon completion of the production, submit a written certification, signed by you or your counsel, stating that: (1) a diligent search has been completed of all documents in your possession, custody, or control that reasonably could contain responsive documents; and (2) all documents located during the search that are responsive have been produced to the Committee.

Definitions

1. The term "document" means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, data, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, communications, electronic mail (email), contracts, cables, notations of any type of conversation, telephone call, meeting or other inter-office or intra-office communication, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, microfiche, microfilm, videotape, recordings and motion pictures), and electronic, mechanical, and electric records or representations of any kind (including, without limitation, tapes, cassettes, disks, and recordings) and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape, or otherwise. A document bearing any notation not a part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.
2. The term "communication" means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or

otherwise, and whether in a meeting, by telephone, facsimile, mail, releases, electronic message including email (desktop or mobile device), text message, instant message, MMS or SMS message, message application, or otherwise.

3. The terms “and” and “or” shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this request any information that might otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neuter genders.
4. The term “including” shall be construed broadly to mean “including, but not limited to.”
5. The term “Company” means the named legal entity as well as any units, firms, partnerships, associations, corporations, limited liability companies, trusts, subsidiaries, affiliates, divisions, departments, branches, joint ventures, proprietorships, syndicates, or other legal, business or government entities over which the named legal entity exercises control or in which the named entity has any ownership whatsoever.
6. The term “identify,” when used in a question about individuals, means to provide the following information: (a) the individual’s complete name and title; (b) the individual’s business or personal address and phone number; and (c) any and all known aliases.
7. The term “related to” or “referring or relating to,” with respect to any given subject, means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with, or is pertinent to that subject in any manner whatsoever.
8. The term “employee” means any past or present agent, borrowed employee, casual employee, consultant, contractor, de facto employee, detailee, fellow, independent contractor, intern, joint adventurer, loaned employee, officer, part-time employee, permanent employee, provisional employee, special government employee, subcontractor, or any other type of service provider.
9. The term “individual” means all natural persons and all persons or entities acting on their behalf.

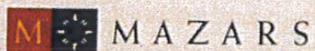
Exhibit B

WeiserMazars LLP

DONALD J. TRUMP

Statement of Financial Condition

June 30, 2011



WEISERMAZARS LLP IS AN INDEPENDENT MEMBER FIRM OF MAZARS GROUP.



INDEPENDENT ACCOUNTANTS' COMPILATION REPORT

To Donald J. Trump:

We have compiled the accompanying statement of financial condition of Donald J. Trump as of June 30, 2011. We have not audited or reviewed the accompanying financial statement and, accordingly, do not express an opinion or provide any assurance about whether the financial statement is in accordance with accounting principles generally accepted in the United States of America.

Donald J. Trump is responsible for the preparation and fair presentation of the financial statement in accordance with accounting principles generally accepted in the United States of America and for designing, implementing, and maintaining internal control irrelevant to the preparation and fair presentation of the financial statement.

Our responsibility is to conduct the compilation in accordance with Statements on Standards for Accounting and Review Services issued by the American Institute of Certified Public Accountants. The objective of a compilation is to assist Donald J. Trump in presenting financial information in the form of financial statements without undertaking to obtain or provide any assurance that there are no material modifications that should be made to the financial statement. We did become aware of departures from accounting principles generally accepted in the United States of America that are described in the following paragraphs.

Accounting principles generally accepted in the United States of America require that in order to reflect amounts to be received in the future at estimated current values the rights must be non-forfeitable, fixed and determinable and not require any future services. As discussed in Notes 3, 4, and 5, several of the values expressed have been based on future interests that, in some instances, are not for fixed or determinable amounts and, in some instances, are based on performance of future services.

Accounting principles generally accepted in the United States of America require that, with respect to each closely held business entity, summarized information about assets, liabilities and results of operations for the most current year be disclosed in the financial statements. In addition, the current estimated value of each closely held business should be recorded as a net investment (assets net of liabilities). Lastly, the ownership percentages of each closely held business should be disclosed. The accompanying statement of financial condition does not include the required summarized disclosures and reports some closely held business entities in a manner that separately states gross assets and liabilities and states certain cash positions separately from their related operating entity and does not disclose Mr. Trump's ownership percentage in certain closely held businesses.

WEISERMAZARS LLP

3000 MARCUS AVENUE – LAKE SUCCESS, NEW YORK – 11042

TEL: 516.488.1200 – FAX: 516.488.1238 – WWW.WEISERMAZARS.COM

1

WEISERMAZARS LLP IS AN INDEPENDENT MEMBER FIRM OF MAZARS GROUP.





WeiserMazars

Accounting principles generally accepted in the United States of America require that the receipt of non-interest bearing deposits in exchange for rights or privileges be recorded at the present value of the liability. As discussed in Note 3, the present value of the liability for non-interest bearing deposits received as a condition of membership in club facilities has not been included in the accompanying statement of financial condition.

Accounting principles generally accepted in the United States of America require that personal financial statements include a provision for current income taxes, as well as estimated income taxes on the differences between the estimated current values of assets and the estimated current amounts of liabilities and their tax bases. The accompanying statement of financial condition does not include such provisions.

Accounting principles generally accepted in the United States of America require that personal financial statements report cash and marketable securities as separate amounts. The accompanying statement of financial condition reports cash and marketable securities as a single amount.

Accounting principles generally accepted in the United States of America require that personal financial statements include all assets and liabilities of the individual whose financial statements are presented. The accompanying statement of financial condition does not include the following for Trump International Hotel & Tower Chicago and Trump International Hotel & Tower Las Vegas: 1) real property and related assets, 2) mortgages and loans payable, and 3) guarantees which Donald J. Trump may have provided.

The effects of the departures from accounting principles generally accepted in the United States of America as described above have not been determined.

Because the significance and pervasiveness of the matters discussed above make it difficult to assess their impact on the statement of financial condition, users of this financial statement should recognize that they might reach different conclusions about the financial condition of Donald J. Trump if they had access to a revised statement of financial condition without the above referenced exceptions to accounting principles generally accepted in the United States of America.

Weiser Mazars LLP
CERTIFIED PUBLIC ACCOUNTANTS

Lake Success, N.Y.
October 6, 2011

DONALD J. TRUMP**STATEMENT OF FINANCIAL CONDITION****JUNE 30, 2011**

(See Independent Accountants' Compilation Report)

ASSETS

Cash and marketable securities	\$ 258,900,000
Escrow and reserve deposits and prepaid expenses	9,100,000
Real and operating properties:	
Trump Tower - 725 Fifth Avenue, New York, New York	490,000,000
NIKETOWN - East 57th Street, New York, New York	263,700,000
40 Wall Street - New York, New York	524,700,000
Trump Park Avenue - New York, New York	311,600,000
Club facilities and related real estate - New York, Florida, New Jersey, California, Washington DC and Scotland	1,314,600,000
The Trump World Tower at United Nations Plaza - New York, New York	21,400,000
100 Central Park South - New York, New York	31,300,000
Trump Plaza, commercial and retained residential portions - New York, New York	28,200,000
Trump Palace, Trump Parc and Trump Parc East Condominiums, commercial portions - New York, New York	12,900,000
Trump International Hotel and Tower - New York, New York	27,400,000
Properties under development - Westchester County, New York and Beverly Hills, California	273,200,000
Partnerships and joint ventures - (net of related debt):	
1290 Sixth Avenue, New York, New York and 555 California Street, San Francisco, California	720,900,000
Miss Universe Pageants	15,000,000
Real estate licensing developments	110,000,000
Other assets	<u>184,100,000</u>
Total assets	<u>\$ 4,597,000,000</u>

The accompanying notes are an integral part of this financial statement.

LIABILITIES AND NET WORTH

Accounts payable, accrued expenses and retention payable	\$ 3,700,000
Loans payable on real and operating properties:	
Loan related to Trump Tower	27,770,000
Secured lease bonds – NIKETOWN	53,080,000
Loan related to 40 Wall Street	160,000,000
Loans related to club facilities and related real estate	24,170,000
Loan related to Trump Park Avenue	22,750,000
Loan related to the commercial and retained residential portions of Trump Plaza	8,470,000
Loan related to Trump International Hotel and Tower, New York	7,000,000
Loan related to properties under development in Westchester County, New York	7,690,000
Mortgages and loans payable secured by other assets	<u>20,780,000</u>
Commitments and contingencies	335,410,000
Net worth	<u>4,261,590,000</u>
Total liabilities and net worth	<u>\$ 4,597,000,000</u>

DONALD J. TRUMP

NOTES TO STATEMENT OF FINANCIAL CONDITION

(See Independent Accountants' Compilation Report)

1. BASIS OF PRESENTATION:

The accompanying statement of financial condition consists of the assets and liabilities of Donald J. Trump. Assets are stated at their estimated current values and liabilities at their estimated current amounts using various valuation methods.

Such valuation methods include, but are not limited to, the use of appraisals, capitalization of anticipated earnings, recent sales and offers, and estimates of current values as determined by Mr. Trump in conjunction with his associates and, in some instances, outside professionals. Considerable judgment is necessary to interpret market data and develop the related estimates of current value. Accordingly, the estimates presented herein are not necessarily indicative of the amounts that could be realized upon the disposition of the assets or payment of the related liabilities. The use of different market assumptions and/or estimation methodologies may have a material effect on the estimated current value amounts.

Accounting principles generally accepted in the United States of America ("GAAP") require personal financial statements include a provision for current income taxes, as well as estimated income taxes on the differences between the estimated current values of assets and the estimated current amounts of liabilities and their tax bases. The accompanying statement of financial condition does not include such provisions.

Certain immaterial personal assets and liabilities, such as automobiles, personal and household effects and personal payables have not been reflected in the accompanying financial statement.

Pursuant to GAAP, this financial statement does not reflect the value of Donald J. Trump's worldwide reputation. When attached to a real property interest, product lines or gaming venture, Mr. Trump's name conveys a high degree of quality and profitability. His persona rises to the level of an internationally recognized brand name. This prestige significantly enhances the value of the properties reflected in this financial statement, as well as that of his future projects. For example, the selling prices of condominium units at Trump Tower, The Trump World Tower at United Nations Plaza and Trump International Hotel and Tower – New York have been recorded at among the highest known levels per square foot. The goodwill attached to the Trump name has significant financial value that has not been reflected in the preparation of this financial statement (See Note 5).

2. CASH AND MARKETABLE SECURITIES:

Cash and marketable securities represents amounts held by Donald J. Trump personally, and amounts in operating entities used for working capital, debt service and other business purposes. Included in this amount are common stock, mutual funds, a hedge fund, corporate notes and bonds, and a United States Treasury Security.

3. REAL AND OPERATING PROPERTIES:

Donald J. Trump and entities that he owns or controls, owns real and operating properties. Estimates of the current value of the properties and related debt are determined on various bases, as described below.

Trump Tower

Donald J. Trump is currently the owner of 100% of the equity interests in the entities that own and operate the commercial and retail elements of the 68 story mixed-use property known as Trump Tower. The property also contains residential condominiums that are owned by the residents. The commercial and retail portions of the property are located at 725 Fifth Avenue between East 56th and East 57th Streets in New York City. It has been described as New York's most famous contemporary building and third most visited attraction with in excess of 4.5 million visitors annually. Trump Tower stands as a symbol of quality and success and is unequaled in the quality of its retail, professional office and private condominium space. Designed by renowned architect Der Scutt, this 68 story bronze glass structure on Fifth Avenue boasts 178,000 square feet of commercial space and 114,000 square feet of retail space. Some of the major tenants are Gucci America Inc., Industrial and Commercial Bank of China, T Capital Management and Star Branding (Tommy Hilfiger ventures).

Until The Trump World Tower at United Nations Plaza was constructed, Trump Tower was the tallest residential building and concrete structure in Manhattan.

The estimated current value of \$490,000,000 is based on an evaluation by Mr. Trump in conjunction with his associates and outside professionals.

The interest that Mr. Trump's entities have in this property has been pledged as collateral with respect to a loan payable. As of June 30, 2011 the amount of this debt was \$27,770,000. The note matures on February 1, 2013 and bears interest at the rate of 7.36%.

Funds in the amount of \$500,000 have been escrowed pursuant to the terms of this loan. This asset is reflected in this financial statement under the caption "Escrow and Reserve Deposits and Prepaid Expenses."

3. REAL AND OPERATING PROPERTIES (CONTINUED):

NIKETOWN

Donald J. Trump is currently the owner of 100% of the equity interests in the entities that are the lessees with respect to two long-term ground leasehold estates relating to the land and buildings located between Fifth and Madison Avenues and principally on 57th Street in New York City. On December 8, 1994, the premises were leased to NIKE Retail Services, Inc. The NIKETOWN retail store is a single integrated building with five floors containing approximately 65,000 square feet. NIKE Retail Services, Inc. characterizes its NIKETOWN stores as high-profile stores designed to showcase NIKE products. The building has direct access to both the Trump Tower Atrium and the IBM Through-Block Arcade.

The property is leased to NIKE Retail Services, Inc. for a term that will end on May 31, 2017. The lessee will then have the option to extend the lease, for three five-year terms beyond that date.

The interest that Mr. Trump's entities have in this property secures bonds that, as of June 30, 2011, had an unpaid value of \$53,080,000. These are 7.125% secured lease bonds that are designed to be self-amortizing through scheduled payments, the last of which will take place on June 1, 2017. The bond payments are designed to be satisfied by the minimum rental payments under the terms of the NIKE lease. Funds in the amount of \$1,740,000 have been escrowed pursuant to the terms of the bonds. This asset is reflected in this financial statement under the caption "Escrow and Reserve Deposits and Prepaid Expenses."

The current value of \$263,700,000 reflects the net proceeds which Mr. Trump in conjunction with his associates and outside professionals expect to be derived from rental activities pursuant to the lease described above, as well as the residual value of the property.

3. REAL AND OPERATING PROPERTIES (CONTINUED):

40 Wall Street

On November 30, 1995 entities, which are wholly owned by Donald J. Trump, became the lessee under a long-term ground lease, which was subsequently amended in 2007, for the property at 40 Wall Street in New York City.

This is a 72-story tower consisting of 1.3 million square feet. Mr. Trump has restored this property to its position as downtown Manhattan's premier office building.

The estimated current value of \$524,700,000 is based upon a successful renegotiation of the ground lease and an evaluation made by Mr. Trump in conjunction with his associates and outside professionals of leases that have been signed or are currently the subject of negotiation, and a cap rate was applied to the resultant cash flow to be derived from the building's operations. Some of the major tenants are CNA Insurance, Countrywide Insurance, Walgreen's/Duane Reade, Hilton Hotels and American Precious Metals Exchange. In the evaluation of this property provision was made for ground rent payments when forecasting the anticipated cash flow.

The property is subject to a mortgage payable in the amount of \$160,000,000 as of June 30, 2011. The interest rate on the note has been fixed through an interest rate swap agreement at a rate of 5.71% until the initial maturity date, November 10, 2017. During this time, if certain cash flow provisions are met, the loan requires principal payments. This loan may be extended for five years beyond that initial maturity date. The mortgage is collateralized by the lessee entity's interest in the property.

Funds in the amount of \$5,020,000 have been escrowed pursuant to the terms of this mortgage. This asset is reflected in this financial statement under the caption "Escrow and Reserve Deposits and Prepaid Expenses."

Trump Park Avenue

Donald J. Trump owns all but a fractional interest of an entity that has converted the former Delmonico Hotel at 59th Street and Park Avenue in New York City into a property that consists of 134 residential condominium units that range from one to seven bedrooms. Duplex penthouse units are located on the 31st and 32nd floors. The property also contains 30,000 square feet of commercial space.

Costas Kondylis, a prominent architect long associated with luxury architecture, was engaged to maintain the prewar aesthetic of the area by designing elegant apartment homes. Mr. Kondylis has previously designed such prominent properties as Trump International Hotel and Tower in New York City, The Trump World Tower at United Nations Plaza, and 610 Park Avenue that was a conversion of the former Mayfair Hotel. Trump Park Avenue is synonymous with an upscale international lifestyle characterized by graciousness and old world luxury skillfully blended with modernity at a truly unrivaled location.

3. REAL AND OPERATING PROPERTIES (CONTINUED):

Trump Park Avenue (Continued)

As of June 30, 2011, 111 units have been delivered at prices that exceeded \$1,850 per square foot.

The estimated current value of \$311,600,000 is based upon an evaluation made by Mr. Trump in conjunction with his associates and outside professionals of the amount that he will earn as a result of the sale of the remaining condominium units, as well as the residual value of the commercial space.

Funds in the amount of \$800,000 have been escrowed pursuant to the terms of the loans. This asset is reflected in this financial statement under the caption "Escrow and Reserve Deposits and Prepaid Expenses."

The unsold condominium units have been pledged as collateral with respect to a loan payable. As of June 30, 2011 the amount of this debt was \$22,750,000. The note, which is collateralized by the unsold condominium units, bears interest at the rate of 5.5% and matures on August 1, 2015.

Club Facilities and Related Real Estate

Entities wholly owned by Mr. Trump have acquired certain properties for the purpose of developing them into club facilities. Several of these clubs will also contain residential units that they will sell. The estimated current value of \$1,314,600,000 is based on an assessment of the cash flow that is expected to be derived from club operations, the sale of residential units after subtracting the estimated costs to be incurred, or recent sales of properties in a similar location. That assessment was prepared by Mr. Trump working in conjunction with his associates and outside professionals.

The Mar-A-Lago Club in Palm Beach, Florida

Mr. Trump acquired this property in 1985 and transferred ownership to a wholly owned limited liability company in 1995. It is now an exclusive private club which consists of 117 rooms. Formerly known as the Marjorie Merriweather Post Estate, it features a 20,000 square foot Louis XIV style ballroom, world class dining, tennis courts, spa, cabanas and guest cottages. Prior to June 1, 2010, one condition of membership was the contribution of a non-interest bearing deposit that does not require repayment until thirty years after receipt, and then only upon the member's resignation. The fact that Mr. Trump will have the use of these funds for that period without cost and that the source of repayment will most likely be a replacement membership has led him to value this liability at zero. Through June 30, 2011 these deposits amounted to \$38,040,000.

3. REAL AND OPERATING PROPERTIES (CONTINUED):

Trump National Golf Club in Briarcliff Manor, New York

Mr. Trump, through a wholly owned entity, acquired Briar Hall Country Club, Briarcliff Manor, New York for \$8,500,000. Trump National Golf Club opened for play on July 1, 2002. Construction of a 42,000 square foot clubhouse was completed during April 2005. Three hundred and fifty memberships are being offered. Prior to June 1, 2010, one condition of membership was the contribution of a non-interest bearing deposit that does not require repayment until thirty years after receipt, and then only upon the member's resignation. The fact that Mr. Trump will have the use of these funds for that period without cost and that the source of repayment will most likely be a replacement membership has led him to value this liability at zero. Through June 30, 2011 these deposits amounted to \$35,890,000.

The real property was subject to a mortgage payable of \$8,600,000 that was repaid July 2010.

In addition to the golf club, this property, when fully developed, will contain 47 luxury condominium units, consisting of 16 townhouses that are fully developed and sold and 31 units to be developed as a mid-rise building. Selling prices ranged from \$1,500,000 to \$2,450,000 with regard to the townhouse units and will range from \$500 to \$835 per square foot with regard to units in the mid-rise building.

Trump International Golf Club in Palm Beach County, Florida

Mr. Trump, through wholly owned entities, acquired a long-term leasehold interest in land that he developed into a first-class golf course along with a 45,000 square foot super-luxury clubhouse that is currently in operation. Sufficient land is under lease and the entity has developed an additional nine-hole course that is used in conjunction with the original eighteen holes, thus creating a twenty seven-hole world-class golf facility. Based on this expanded facility, the club is able to offer five hundred and fifty memberships. Prior to June 1, 2010, one condition of membership was the contribution of a non-interest bearing deposit that does not require repayment until thirty years after receipt, and then only upon the member's resignation. The fact that Mr. Trump will have the use of these funds for that period without cost and that the source of repayment will most likely be a replacement membership has led him to value this liability at zero. Through June 30, 2011 these deposits amounted to \$41,990,000.

The real property was subject to a mortgage payable of \$6,300,000 that was repaid July 2010.

Funds in the amount of \$215,000 have been escrowed with the county with regard to this property. This asset is reflected in this financial statement under the caption "Escrow and Reserve Deposits and Prepaid Expenses."

3. REAL AND OPERATING PROPERTIES (CONTINUED):

Trump National Golf Club in Los Angeles, California

Mr. Trump, through a wholly owned entity, acquired a property that he has developed into a world-class golf course and club on the bluffs of the southern most point of the Palos Verdes Peninsula in California. The course, originally designed by Pete Dye, has been totally redesigned by Mr. Trump and features panoramic views of the Pacific Ocean and Catalina Island from every hole. The course offers a world-class driving range and water features on a number of holes. The clubhouse boasts fine dining in two Zagat rated restaurants, a players' lounge, and a bar and banquet facility which can host special events for up to 350 people.

The real property was subject to a mortgage payable of \$14,700,000 that was repaid March 2011.

In addition to the Club, Trump National Golf Club is presently zoned for 75 home sites with unparalleled ocean and golf course views. At June 30, 2011, there were 55 home sites that will sell for prices that range from \$3,000,000 to \$12,000,000.

Trump National Golf Club in Bedminster, New Jersey

Mr. Trump, through a wholly owned entity, acquired a property consisting of 580 acres that has been developed into a world-class 36 hole golf course and club in Bedminster, New Jersey. The Club was designed by Tom Fazio and opened in the summer of 2004. The Club can currently accommodate 700 members. There are 6 cottages available for rental by members. In addition to the golf course, members have the use of an Olympic sized swimming pool, tennis courts, banquet facilities, casual dining facilities and a facility with ten single bedroom suites in addition to a state-of-the-art conference room and fitness facility. Prior to June 1, 2010, one condition of membership was the contribution of a non-interest bearing deposit that does not require repayment until thirty years after receipt, and then only upon the member's resignation. The fact that Mr. Trump will have the use of these funds for that period without cost and that the source of repayment will most likely be a replacement membership has led him to value this liability at zero. Through June 30, 2011 these deposits amounted to \$40,000,000.

The real property was subject to a mortgage payable of \$8,200,000 that was repaid July 2010.

3. REAL AND OPERATING PROPERTIES (CONTINUED):

Trump National Golf Club in Colts Neck, New Jersey

Mr. Trump, through wholly owned entities, acquired Trump National Golf Club, Colts Neck. The club originally designed by Jerry Pate and refined by Tom Fazio II combines a world class golf course, with an aquatic facility, tennis complex and a 75,000 square foot clubhouse. The Club can accommodate 375 members. Prior to June 1, 2010, one condition of membership was the contribution of a non-interest bearing deposit that does not require repayment until certain terms are met and then only upon the member's resignation. The fact that Mr. Trump will have the use of these funds for that period without cost and that the source of repayment will most likely be a replacement membership has led him to value this liability at zero. Through June 30, 2011 these deposits amounted to \$13,430,000.

The real property owned by the club is subject to a mortgage loan at June 30, 2011, in the amount of \$14,770,000. The loan bears an interest of 6% and matures on September 9, 2028.

Trump National Golf Club in Washington D.C.

Mr. Trump, through wholly owned entities, acquired Trump National Golf Club, Washington, D.C. This club, just a short distance from the nation's capital, is comprised of two 18-hole courses built by Tom Fazio and Arthur Hills, respectively, and is located on over 600 acres with vast frontage on the beautiful historic Potomac River. Construction has been completed to expand the 50,000 square foot clubhouse with enlarged dining space. Additionally, the fitness, tennis and swimming facilities will be completely renovated and redesigned, creating amenities which will complement the state of the art facilities. Currently under construction is an underground cart facility. Prior to June 1, 2010, one condition of membership was the contribution of a non-interest bearing deposit that does not require repayment until certain terms are met, and then only upon the member's resignation. The fact that Mr. Trump will have the use of these funds for that period without cost and that the source of repayment will most likely be a replacement membership has led him to value this liability at zero. Through June 30, 2011 these deposits amounted to \$16,980,000.

The real property owned by the club is subject to a purchase money promissory note that has a balance at June 30, 2011 of \$9,400,000 and bears interest at the rate of 5.5%. The note will mature on May 1, 2029.

3. REAL AND OPERATING PROPERTIES (CONTINUED):

Trump International Golf Club in Scotland

Mr. Trump, through wholly owned entities, has acquired 500 hectares of land on the north-east coast of Aberdeenshire. The development received outline planning permission in December 2008 for a world class, Martin Hawtree designed championship links golf course suitable for hosting major events, a second future award winning 18-hole course, a luxury clubhouse, a state of the art driving range and golf academy, a tennis centre, an equestrian centre, a luxury five-star 450 room hotel with associated conference and banquet facilities, a full-service spa, a residential village consisting of 950 holiday homes and 500 single family residences and 36 golf villas. In June 2010, Mr. Trump received detailed approval of the master plan and championship golf course design, which allows Mr. Trump to start construction. Construction of the championship golf course started July 1, 2010 and will be completed by the end of 2011. Trump International Golf Club in Scotland has already started to take tee time reservations in advance of the July 1, 2012 opening of the championship golf course. Mr. Trump recently received approval for the construction of an internal road system and is currently preparing to submit detailed applications for the clubhouse. Trump International Golf Club in Scotland is currently completing various infrastructure improvements, such as the construction of a golf course maintenance facility. Trump International Golf Club in Scotland is also improving other buildings onsite, such as Menie Park Lodge and MacLeod House.

Trump National Golf Club in Hudson Valley, New York

In 2009, entities wholly owned by Mr. Trump acquired the 300 acre Trump National Golf Club, Hudson Valley in Hopewell Junction, New York. The 18 hole championship course, is framed by breathtaking views of the Stormville Mountains and is complimented by a traditional Adirondack-style clubhouse. Improvements to the amenities include new 5,000 square foot men's and women's locker rooms for the members at the club. Also, plans have begun for an Olympic sized swimming complex and six Har-Tru tennis courts. Prior to June 1, 2010, one condition of membership was the contribution of a non-interest bearing deposit that does not require repayment until certain terms are met, and then only upon the member's resignation. The fact that Mr. Trump will have the use of these funds for that period without cost and that the source of repayment will most likely be a replacement membership has led him to value this liability at zero. Through June 30, 2011 these deposits amounted to \$1,260,000.

3. REAL AND OPERATING PROPERTIES (CONTINUED):

Trump National Golf Club - Philadelphia

In 2009, entities wholly owned by Mr. Trump acquired the 365 acre Trump National Golf Club - Philadelphia. With magnificent views of the Philadelphia skyline, Trump National Golf Club - Philadelphia, located in Pine Hill, New Jersey was designed by Tom Fazio. The course has an 80,000 square foot Kentucky Blue grass two-tiered practice area. The 43,000 square foot clubhouse offers a sophisticated yet elegant feel for members and guests. Construction will begin this fall on the aquatic center. Plans are currently underway for tennis courts and a bistro. Prior to June 1, 2010, one condition of membership was the contribution of a non-interest bearing deposit that does not require repayment until certain terms are met, and then only upon the member's resignation. The fact that Mr. Trump will have the use of these funds for that period without cost and that the source of repayment will most likely be a replacement membership has led him to value this liability at zero. Through June 30, 2011 these deposits amounted to \$860,000.

The Trump World Tower at United Nations Plaza

Entities wholly owned by Donald J. Trump developed and constructed a super luxury residential condominium development at 845 United Nations Plaza in New York City. The 90-story tower has a gross area of 877,000 square feet and is 860 feet in height. The building is situated at the northwest corner of the United Nations Plaza with exposures to the United Nations Park, the East River, Midtown and Downtown Manhattan. There are 370 super luxury condominium units with ceiling heights varying from 10 to 16 feet at the uppermost floors. As of June 30, 2011, 369 units have been sold. In addition to the condominium units, a bar and a restaurant are on the ground floor level. There is a valet parking facility for 75 cars below grade. There is also a roof top antenna structure. Mr. Trump will retain and rent out these commercial spaces.

The estimated current value of \$21,400,000 reflects the net proceeds which Mr. Trump in conjunction with his associates and outside professionals expect that he will derive from the sale of the final unit based on current pricing, as well as the residual value of the commercial space which will be retained by Mr. Trump.

3. REAL AND OPERATING PROPERTIES (CONTINUED):

100 Central Park South

Entities wholly owned by Mr. Trump have developed 100 Central Park South in New York City. The property, which is known as Trump Parc East Condominium, consists of an 81-unit luxury apartment house located at the corner of Central Park South and The Avenue of the Americas. The property also contains a commercial condominium unit that is currently leased to three retail tenants. Through June 30, 2011, units with a value of \$53,060,000 have been sold.

The current value of \$31,300,000 reflects the net proceeds which Mr. Trump in conjunction with his associates and outside professionals expect that he will derive from residential unit sales during periods subsequent to June 30, 2011 based on current pricing.

Trump Plaza - Commercial and Retained Residential Portions

Entities wholly owned by Donald J. Trump developed Trump Plaza in 1983 which was sold pursuant to a cooperative offering plan. The property is located on Third Avenue between East 61st and East 62nd Streets in New York City. The assets reflected in this statement represent certain residual interests that entities wholly owned by Mr. Trump still own. These consist of two residential units, a long-term leasehold interest in two residential townhouses, each consisting of four residential units, a parking garage and commercial space.

The estimated current value of \$28,200,000 is based upon an assessment made by Mr. Trump in conjunction with his associates and outside professionals expected to be derived from rental activities pursuant to the leases, as well as the residual value of the properties.

The interest that Mr. Trump's entities have in the two residential townhouses, the parking garage and the commercial space has been pledged as collateral with respect to a loan payable. As of June 30, 2011, the amount of this debt was \$8,470,000. The note matures on August 11, 2014 and bears interest at the rate of 5.7%.

Funds in the amount of \$105,000 have been escrowed pursuant to the terms of this loan. This asset is reflected in this financial statement under the caption "Escrow and Reserve Deposits and Prepaid Expenses."

3. REAL AND OPERATING PROPERTIES (CONTINUED):
Trump Palace, Trump Parc and Trump Parc East Condominiums – Commercial Portions

Entities wholly owned by Mr. Trump have developed the aforementioned properties and the only areas that remained unsold as of June 30, 2011 were:

- 31 storage units at Trump Palace Condominium
- 36 storage units and a parking garage at Trump Parc Condominium
- the commercial condominium elements at Trump Parc East Condominium

The estimated current value of \$12,900,000 was based on an assessment made by Mr. Trump in conjunction with his associates of the value of the various properties described above.

Trump International Hotel and Tower - New York, New York

Donald J. Trump has redeveloped the former Paramount Building at One Central Park West in New York City from an office tower into a luxury residential and hotel condominium development.

Although all units in the property have been sold, entities wholly owned by Mr. Trump will continue to receive certain fees relating to on-going property operations.

The estimated current value of \$27,400,000 was based upon an assessment made by Mr. Trump in conjunction with his associates and outside professionals of the remaining compensation which he and entities which he owns will derive as a result of hotel and rental operations, as well as the value ascribed to the retained commercial condominium elements of the property. These are the garage facility, the restaurant and an easement with respect to the rooftop area, all of which are now owned by entities wholly owned by Mr. Trump.

The interest that Mr. Trump's entity has in this property has been pledged as collateral with respect to a loan payable. As of June 30, 2011, the amount of this debt was \$7,000,000 with an interest rate of 6.18% and which matures on July 11, 2016.

Funds in the amount of \$200,000 have been escrowed pursuant to the terms of this loan. This asset is reflected in this financial statement under the caption "Escrow and Reserve Deposits and Prepaid Expenses".

3. REAL AND OPERATING PROPERTIES (CONTINUED):

Properties Under Development in Westchester County, New York and Beverly Hills, California

Westchester County, New York

An entity wholly owned by Mr. Trump acquired a property known as The Mansion at Seven Springs in Bedford, New York which consists of over 200 acres of land, a mansion and other buildings. This property is zoned for 9 luxurious homes. It has been valued at \$261,000,000 based on an assessment made by Mr. Trump in conjunction with his associates and outside professionals of the projected net cash flow which he would derive as those units are constructed and sold, and the estimated fair value of the existing mansion and other buildings.

This property is the subject of a mortgage payable that had a balance due at June 30, 2011 of \$7,690,000 with an interest rate of 5.25%. This mortgage will mature on July 1, 2014.

Funds in the amount of \$60,000 have been escrowed pursuant to the terms of this loan. This asset is reflected in this financial statement under the caption "Escrow and Reserve Deposits and Prepaid Expenses."

Beverly Hills, California

Mr. Trump, through wholly owned entities, owns a home located in Beverly Hills, California. This property is located at the intersection of Canon, Rodeo, and Sunset in an area of Beverly Hills known as the "flats". The home is directly across the street from the world famous Beverly Hills Hotel on what many call the most desirable lot in the city due to its unmatched location.

The estimated current value of \$12,200,000 is based on Mr. Trump's investment in the property.

4. PARTNERSHIPS AND JOINT VENTURES:

Estimates of the current value of Mr. Trump's interests in partnerships and joint ventures reflect his interest therein and are determined on various bases, as described below.

1290 Sixth Avenue in New York, New York and 555 California Street in San Francisco, California

Although condominium sales were complete and rental activity was robust at the 76-acre Trump Place development, located along the Hudson River between 59th and 72nd Streets in Manhattan, Mr. Trump's Hong Kong based partners made a decision to sell the rental buildings, undeveloped land, and the commercial space and reinvest the proceeds in two commercial properties. However, Mr. Trump considers the sale of the aforementioned properties to be well beneath the fair value of the properties, and is currently pursuing all remedies available to him to receive the full value of his share of the properties from his partners.

The estimated current value, net of debt, of \$720,900,000 is based on an evaluation made by Mr. Trump in conjunction with his associates and outside professionals of leases that have been signed or are currently the subject of negotiation, and a cap rate was applied to the resultant cash flow to be derived from the building's operations.

Miss Universe Pageants

In 1996, Donald J. Trump and CBS acquired all of the assets that together are the "Miss Universe Pageants." In 2002 NBC became a 50% joint venture participant in those activities, replacing CBS. The company produces the Miss Universe Pageant, the Miss USA Pageant, as well as the Miss Teen USA Pageant. The pageants have been redefined to present the combination of style and intelligence that define the woman of the new millennium.

The alliance with NBC has enabled the Miss Universe Organization to bring together women from around the world in the spirit of first-class competition. The resultant prime-time network television specials are broadcast live to a worldwide audience. As a result of this notoriety, site fees for Miss Universe events far exceed those paid to similar organizations. The estimated current value of \$15,000,000 was based on an assessment made by Mr. Trump in conjunction with his associates and outside professionals.

5. REAL ESTATE LICENSING DEVELOPMENTS

As stated in Note 1, this financial statement does not reflect the value of Donald J. Trump's worldwide reputation, except to the extent it has become associated with properties either operative or under development. His recognized persona has evolved to the extent that it has become an internationally recognized brand name. The resultant prestige significantly enhances the value of the properties with which he is associated. The goodwill attached to the Trump name has proven financial value in that potential users of real property around the world have demonstrated willingness to pay a significant premium for ownership or use of a Trump related residence. As a result, other developers of quality properties have approached Mr. Trump with proposals for joint ventures involving ways in which his organization's development skill and reputation will bring enhanced value to them.

Mr. Trump has formed numerous associations with others for the purpose of developing properties and is currently negotiating with others. The estimated current value of \$110,000,000 was based on an assessment made by Mr. Trump in conjunction with his associates and outside professionals of the cash flow that is expected to be derived by him from these associations as their potential is realized. In preparing that assessment, Mr. Trump and his management considered only situations which have evolved to the point where signed arrangements with the other parties exist and fees and other compensation which he will earn are reasonably quantifiable.

Terms of the agreements vary and might involve defined compensation per unit or contingent fees based on parameters such as selling prices or gross profit levels, upfront guaranteed fees, and a percentage of gross revenues. The process utilized by management to select the people and properties with which the Trump name will be associated is extremely selective; each must enhance Mr. Trump's reputation.

Mr. Trump has pledged \$19,760,000 of the fees derived on certain of these agreements to his former partner in The Trump Word Tower at United Nations Plaza. This debt is reflected in this financial statement as a liability under the caption "Mortgages and loans payable secured by other assets".

6. OTHER ASSETS

Trump Tower

Mr. Trump owns a triplex apartment on the top three floors of Trump Tower (see Note 3).

6. OTHER ASSETS (CONTINUED):

Other Properties in Palm Beach, Florida

Mr. Trump owns two homes that are located in Palm Beach, Florida, adjacent to Mar-a-Lago Club.

Mr. Trump's interests in these properties have been pledged as collateral with respect to two loans. One loan had a balance at June 30, 2011 of \$310,000 and bears an interest rate of 1.75% per annum above the rate known as the six-month London Interbank Offering Rate as it is fixed at certain points in time and at June 30, 2011 was 2.1875%. This loan will mature on January 1, 2019. The other loan had a balance at June 30, 2011 of \$710,000 and bears an interest rate of 1.50% per annum above the rate known as the six-month London Interbank Offering Rate as it is fixed at certain points in time and at June 30, 2011 was 1.9375%. This loan will mature on February 1, 2019.

Corporate Aircrafts

Entities owned by Donald J. Trump own a Boeing 757 jet and a Sikorsky helicopter.

Other

Mr. Trump and entities that he owns, control several other active businesses as well as other assets. The assets related to these interests include:

- an 1,100 acre vineyard in Charlottesville, Virginia along with a carriage museum, office building and several other buildings
- licenses to operate and manage the Wollman Rink which was reconstructed by Mr. Trump in 1986 and the landmark Carousel in Central Park
- an international talent/model agency
- a management company that supervises the operation of condominium properties, as well as Mr. Trump's own properties
- receivables representing amounts earned to date and contract rights with regard to future performances on television
- loans to family members

Funds in the amount of \$460,000 have been escrowed pursuant to the terms of Mr. Trump's contractual commitments at the Wollman Rink. This asset is reflected in this financial statement under the caption "Escrow and Reserve Deposits and Prepaid Expenses."

7. COMMITMENTS AND CONTINGENCIES:

Mr. Trump also has personal responsibilities with respect to various employment contracts, construction contracts, loan agreements, purchase commitments and other commitments. These include recourse obligations concerning partnership indebtedness, guarantees relating to the completion and environmental acceptance of certain projects.

Mr. Trump and his affiliates are parties to various lawsuits and legal actions. At the present time, the outcome of those proceedings cannot be estimated. Mr. Trump believes that these legal actions will not have a material effect on his financial position.

Various taxing authorities are currently auditing Mr. Trump and certain of his affiliates. At the present time, the outcome of these examinations cannot be determined.

Mr. Trump periodically maintains funds on deposit in banking institutions in excess of FDIC insured amounts. He is at risk for any amounts exceeding the FDIC limitation.

8. SUBSEQUENT EVENTS:

Mr. Trump has evaluated subsequent events through October 6, 2011, the date the financial statement was available for issuance.

DONALD J. TRUMP

Statement of Financial Condition

June 30, 2012

W E I S E R M A Z A R S



INDEPENDENT ACCOUNTANTS' COMPILATION REPORT

To Donald J. Trump:

We have compiled the accompanying statement of financial condition of Donald J. Trump as of June 30, 2012. We have not audited or reviewed the accompanying financial statement and, accordingly, do not express an opinion or provide any assurance about whether the financial statement is in accordance with accounting principles generally accepted in the United States of America.

Donald J. Trump is responsible for the preparation and fair presentation of the financial statement in accordance with accounting principles generally accepted in the United States of America and for designing, implementing, and maintaining internal control relevant to the preparation and fair presentation of the financial statement.

Our responsibility is to conduct the compilation in accordance with Statements on Standards for Accounting and Review Services issued by the American Institute of Certified Public Accountants. The objective of a compilation is to assist Donald J. Trump in presenting financial information in the form of financial statements without undertaking to obtain or provide any assurance that there are no material modifications that should be made to the financial statement. We did become aware of departures from accounting principles generally accepted in the United States of America that are described in the following paragraphs.

Accounting principles generally accepted in the United States of America require that in order to reflect amounts to be received in the future at estimated current values the rights must be non-forfeitable, fixed and determinable and not require any future services. As discussed in Notes 3, 4, and 5, several of the values expressed have been based on future interests that, in some instances, are not for fixed or determinable amounts and, in some instances, are based on performance of future services.

Accounting principles generally accepted in the United States of America require that, with respect to each closely held business entity, summarized information about assets, liabilities and results of operations for the most current year be disclosed in the financial statements. In addition, the current estimated value of each closely held business should be recorded as a net investment (assets net of liabilities). The accompanying statement of financial condition does not include the required summarized disclosures and reports some closely held business entities in a manner that separately states gross assets and liabilities and states certain cash positions separately from their related operating entity.

M A Z A R S



WeiserMazars

Accounting principles generally accepted in the United States of America require that the receipt of non-interest bearing deposits in exchange for rights or privileges be recorded at the present value of the liability. As discussed in Note 3, the present value of the liability for non-interest bearing deposits received as a condition of membership in club facilities has not been included in the accompanying statement of financial condition.

Accounting principles generally accepted in the United States of America require that personal financial statements include a provision for current income taxes, as well as estimated income taxes on the differences between the estimated current values of assets and the estimated current amounts of liabilities and their tax bases. The accompanying statement of financial condition does not include such provisions.

Accounting principles generally accepted in the United States of America require that personal financial statements report cash and marketable securities as separate amounts. The accompanying statement of financial condition reports cash and marketable securities as a single amount.

Accounting principles generally accepted in the United States of America require that personal financial statements include all assets and liabilities of the individual whose financial statements are presented. The accompanying statement of financial condition does not include the following for Trump International Hotel & Tower Chicago and Trump International Hotel & Tower Las Vegas: 1) real property and related assets, 2) mortgages and loans payable, and 3) guarantees which Donald J. Trump may have provided.

The effects of the departures from accounting principles generally accepted in the United States of America as described above have not been determined.

Because the significance and pervasiveness of the matters discussed above make it difficult to assess their impact on the statement of financial condition, users of this financial statement should recognize that they might reach different conclusions about the financial condition of Donald J. Trump if they had access to a revised statement of financial condition without the above referenced exceptions to accounting principles generally accepted in the United States of America.

Weiser Mazars LLP
CERTIFIED PUBLIC ACCOUNTANTS

Lake Success, N.Y.
October 12, 2012

DONALD J. TRUMP

STATEMENT OF FINANCIAL CONDITION

JUNE 30, 2012

(See Independent Accountants' Compilation Report)

ASSETS

Cash and marketable securities	\$ 169,700,000
Escrow and reserve deposits and prepaid expenses	10,780,000
Real and operating properties:	
Trump Tower - 725 Fifth Avenue, New York, New York	501,100,000
NIKETOWN - East 57th Street, New York, New York	279,500,000
40 Wall Street - New York, New York	527,200,000
Trump Park Avenue - New York, New York	312,400,000
Club facilities and related real estate - New York, Florida, New Jersey, California, Washington DC, North Carolina and Scotland	1,570,300,000
The Trump World Tower at United Nations Plaza - New York, New York	18,200,000
100 Central Park South - New York, New York	32,700,000
Trump Plaza, commercial and retained residential portions - New York, New York	30,100,000
Trump Palace, Trump Park and Trump Park East Condominiums, commercial portions - New York, New York	13,000,000
Trump International Hotel and Tower - New York, New York	27,600,000
Mansion at Seven Springs - Bedford, New York	291,000,000
Partnerships and joint ventures - (net of related debt):	
1290 Avenue of the Americas, New York, New York and 555 California Street, San Francisco, California	823,300,000
Miss Universe Pageants	15,000,000
Real estate licensing developments	85,000,000
Other assets	<u>303,500,000</u>
Total assets	<u>\$ 5,010,380,000</u>

The accompanying notes are an integral part of this financial statement.

LIABILITIES AND NET WORTH

Accounts payable and accrued expenses	\$ 4,400,000
Loans payable on real and operating properties:	
Loan related to Trump Tower	26,890,000
Secured lease bonds - NIKETOWN	46,390,000
Loan related to 40 Wall Street	160,000,000
Loans related to club facilities and related real estate	148,360,000
Loan related to Trump Park Avenue	22,190,000
 Loan related to the commercial and retained residential portions of Trump Plaza	8,300,000
 Loan related to Trump International Hotel and Tower, New York	7,000,000
 Loan related to Mansion at Seven Springs	7,520,000
Mortgages and loans payable secured by other assets	<u>20,650,000</u>
 Commitments and contingencies	451,700,000
 Net worth	<u>4,558,680,000</u>
 Total liabilities and net worth	<u>\$ 5,010,380,000</u>

DONALD J. TRUMP

NOTES TO STATEMENT OF FINANCIAL CONDITION

(See Independent Accountants' Compilation Report)

1. BASIS OF PRESENTATION:

The accompanying statement of financial condition consists of the assets and liabilities of Donald J. Trump. Assets are stated at their estimated current values and liabilities at their estimated current amounts using various valuation methods.

Such valuation methods include, but are not limited to, the use of appraisals, capitalization of anticipated earnings, recent sales and offers, and estimates of current values as determined by Mr. Trump in conjunction with his associates and, in some instances, outside professionals. Considerable judgment is necessary to interpret market data and develop the related estimates of current value. Accordingly, the estimates presented herein are not necessarily indicative of the amounts that could be realized upon the disposition of the assets or payment of the related liabilities. The use of different market assumptions and/or estimation methodologies may have a material effect on the estimated current value amounts.

Accounting principles generally accepted in the United States of America ("GAAP") require personal financial statements include a provision for current income taxes, as well as estimated income taxes on the differences between the estimated current values of assets and the estimated current amounts of liabilities and their tax bases. The accompanying statement of financial condition does not include such provisions.

Certain immaterial personal assets and liabilities, such as automobiles, personal and household effects and personal payables have not been reflected in the accompanying financial statement.

Pursuant to GAAP, this financial statement does not reflect the value of Donald J. Trump's worldwide reputation. When attached to a real property interest, product lines or gaming venture, Mr. Trump's name conveys a high degree of quality and profitability. His persona rises to the level of an internationally recognized brand name. This prestige significantly enhances the value of the properties reflected in this financial statement, as well as that of his future projects. For example, the selling prices of condominium units at Trump Tower, The Trump World Tower at United Nations Plaza and Trump International Hotel and Tower - New York have been recorded at among the highest known levels per square foot. The goodwill attached to the Trump name has significant financial value that has not been reflected in the preparation of this financial statement (See Note 5).

2. CASH AND MARKETABLE SECURITIES:

Cash and marketable securities represents amounts held by Donald J. Trump personally, and amounts in wholly-owned operating entities used for working capital, debt service and other business purposes. Included in this amount are common stock, mutual funds, a hedge fund, corporate notes and bonds, and United States Treasury Securities.

3. REAL AND OPERATING PROPERTIES:

Donald J. Trump and entities that he owns or controls, owns real and operating properties. Estimates of the current value of the properties and related debt are determined on various bases, as described below.

Trump Tower

Donald J. Trump is currently the owner of 100% of the equity interests in the entities that own and operate the commercial and retail elements of the 68 story mixed-use property known as Trump Tower. The property also contains residential condominiums that are owned by the residents. The commercial and retail portions of the property are located at 725 Fifth Avenue between East 56th and East 57th Streets in New York City. It has been described as New York's most famous contemporary building and third most visited attraction with in excess of 4.5 million visitors annually. Trump Tower stands as a symbol of quality and success and is unequaled in the quality of its retail, professional office and private condominium space. Designed by renowned architect Der Scutt, this 68 story mixed use structure on Fifth Avenue includes commercial and retail space housing such tenants as Gucci America Inc., Industrial and Commercial Bank of China, T Capital Management and Star Branding (Tommy Hilfiger ventures).

Until The Trump World Tower at United Nations Plaza was constructed, Trump Tower was the tallest residential building and concrete structure in Manhattan.

The estimated current value of \$501,100,000 is based on an evaluation by Mr. Trump in conjunction with his associates and outside professionals, applying a cap rate to the cash flow to be derived from the building operations.

The interest that Mr. Trump's entities have in this property has been pledged as collateral with respect to a loan payable. As of June 30, 2012 the amount of this debt was \$26,890,000. The note matures on February 1, 2013 and bears interest at the rate of 7.36%. On August 30, 2012, the property was refinanced for \$100,000,000, allowing Mr. Trump to take a distribution of over \$73,000,000. The new loan which bears interest at 4.2% matures on September 9, 2022.

Funds in the amount of \$2,790,000 have been escrowed pursuant to the terms of the loan in place as of June 30, 2012. This asset is reflected in this financial statement under the caption "Escrow and Reserve Deposits and Prepaid Expenses."

3. REAL AND OPERATING PROPERTIES (CONTINUED):

NIKETOWN

Donald J. Trump is currently the owner of 100% of the equity interests in the entities that are the lessees with respect to two long-term ground leasehold estates relating to the land and buildings located between Fifth and Madison Avenues and principally on 57th Street in New York City. On December 8, 1994, the premises were leased to NIKE Retail Services, Inc. The NIKETOWN retail store is a single integrated building with five floors containing approximately 65,000 square feet. NIKE Retail Services, Inc. characterizes its NIKETOWN stores as high-profile stores designed to showcase NIKE products. The building has direct access to both the Trump Tower Atrium and the IBM Through-Block Arcade.

The property is leased to NIKE Retail Services, Inc. for a term that will end on May 31, 2017. The lessee will then have the option to extend the lease, for three five-year terms beyond that date.

The interest that Mr. Trump's entities have in this property secures bonds that, as of June 30, 2012, had an unpaid value of \$46,390,000. These are 7.125% secured lease bonds that are designed to be self-amortizing through scheduled payments, the last of which will take place on June 1, 2017. The bond payments are designed to be satisfied by the minimum rental payments under the terms of the NIKE lease. Funds in the amount of \$210,000 have been escrowed pursuant to the terms of the bonds. This asset is reflected in this financial statement under the caption "Escrow and Reserve Deposits and Prepaid Expenses."

The current value of \$279,500,000 reflects the net proceeds which Mr. Trump in conjunction with his associates and outside professionals expect to be derived from rental activities pursuant to the lease described above, as well as the residual value of the property.

3. REAL AND OPERATING PROPERTIES (CONTINUED):

40 Wall Street

On November 30, 1995 entities, which are wholly owned by Donald J. Trump, became the lessee under a long-term ground lease, which was subsequently amended in 2007, for the property at 40 Wall Street in New York City.

This is a 72-story tower consisting of 1.3 million square feet. Mr. Trump has restored this property to its position as downtown Manhattan's premier office building.

The estimated current value of \$527,200,000 is based upon a successful renegotiation of the ground lease and an evaluation made by Mr. Trump in conjunction with his associates and outside professionals of leases that have been signed or are currently the subject of negotiation, and a cap rate was applied to the resultant cash flow to be derived from the building's operations. Some of the major tenants are CNA Insurance, Countrywide Insurance, Walgreen's/Duane Reade, Hilton Hotels and American Precious Metals Exchange. In the evaluation of this property provision was made for ground rent payments when forecasting the anticipated cash flow.

The property is subject to a mortgage payable in the amount of \$160,000,000 as of June 30, 2012. The interest rate on the note has been fixed through an interest rate swap agreement at a rate of 5.71% until the initial maturity date, November 10, 2017. During this time, if certain cash flow provisions are met, the loan requires principal payments. This loan may be extended for five years beyond that initial maturity date. The mortgage is collateralized by the lessee entity's interest in the property.

Funds in the amount of \$5,580,000 have been escrowed pursuant to the terms of this mortgage. This asset is reflected in this financial statement under the caption "Escrow and Reserve Deposits and Prepaid Expenses."

Trump Park Avenue

Donald J. Trump owns all but a fractional interest of an entity that has converted the former Delmonico Hotel at 59th Street and Park Avenue in New York City into a property that consists of 134 residential condominium units that range from one to seven bedrooms. Duplex penthouse units are located on the 31st and 32nd floors. The property also contains 30,000 square feet of commercial space.

Costas Kondylis, a prominent architect long associated with luxury architecture, was engaged to maintain the prewar aesthetic of the area by designing elegant apartment homes. Mr. Kondylis has previously designed such prominent properties as Trump International Hotel and Tower in New York City, The Trump World Tower at United Nations Plaza, and 610 Park Avenue that was a conversion of the former Mayfair Hotel. Trump Park Avenue is synonymous with an upscale international lifestyle characterized by graciousness and old world luxury skillfully blended with modernity at a truly unrivaled location.

3. REAL AND OPERATING PROPERTIES (CONTINUED):

Trump Park Avenue (Continued)

The estimated current value of \$312,400,000 is based upon an evaluation made by Mr. Trump in conjunction with his associates and outside professionals of the amount that he will earn as a result of the sale of the remaining condominium units, as well as the residual value of the commercial space.

Funds in the amount of \$950,000 have been escrowed pursuant to the terms of the loans. This asset is reflected in this financial statement under the caption "Escrow and Reserve Deposits and Prepaid Expenses."

The unsold condominium units have been pledged as collateral with respect to a loan payable. As of June 30, 2012 the amount of this debt was \$22,190,000. The note, which is collateralized by the unsold condominium units, bears interest at the rate of 5.5% and matures on August 1, 2015.

Club Facilities and Related Real Estate

Entities wholly owned by Mr. Trump have acquired certain properties for the purpose of developing them into club facilities. Several of these clubs will also contain residential units that they will sell. The estimated current value of \$1,570,300,000 is based on an assessment of the cash flow that is expected to be derived from club operations, cash expenditures to improve certain facilities, the sale of residential units after subtracting the estimated costs to be incurred, or recent sales of properties in a similar location. That assessment was prepared by Mr. Trump working in conjunction with his associates and outside professionals.

The Mar-A-Lago Club in Palm Beach, Florida

Mr. Trump acquired this property in 1985 and transferred ownership to a wholly owned limited liability company in 1995. It is now an exclusive private club which consists of 117 rooms. Formerly known as the Marjorie Merriweather Post Estate, it features a 20,000 square foot Louis XIV style ballroom, world class dining, tennis courts, spa, cabanas and guest cottages.

3. REAL AND OPERATING PROPERTIES (CONTINUED):

Trump National Golf Club in Briarcliff Manor, New York

Mr. Trump, through a wholly owned entity, acquired Briar Hall Country Club, Briarcliff Manor, New York for \$8,500,000. Trump National Golf Club opened for play on July 1, 2002. Construction of a 42,000 square foot clubhouse was completed during April 2005. Three hundred and fifty memberships are being offered. Prior to June 1, 2010, one condition of membership was the contribution of a non-interest bearing deposit that does not require repayment until thirty years after receipt, and then only upon the member's resignation. The fact that Mr. Trump will have the use of these funds for that period without cost and that the source of repayment will most likely be a replacement membership has led him to value this liability at zero. Through June 30, 2012 these deposits amounted to \$33,800,000.

In addition to the golf club, this property, when fully developed, will contain 47 luxury condominium units, consisting of 16 townhouses that are fully developed and sold and 31 units to be developed as a mid-rise building. Selling prices ranged from \$1,500,000 to \$2,450,000 with regard to the townhouse units and will range from \$500 to \$835 per square foot with regard to units in the mid-rise building.

Trump International Golf Club in Palm Beach County, Florida

Mr. Trump, through wholly owned entities, acquired a long-term leasehold interest in land that he developed into a first-class golf course along with a 45,000 square foot super-luxury clubhouse that is currently in operation. Sufficient land is under lease and the entity has developed an additional nine-hole course that is used in conjunction with the original eighteen holes, thus creating a twenty seven-hole world-class golf facility. Based on this expanded facility, the club is able to offer five hundred and fifty memberships. Prior to June 1, 2010, one condition of membership was the contribution of a non-interest bearing deposit that does not require repayment until thirty years after receipt, and then only upon the member's resignation. The fact that Mr. Trump will have the use of these funds for that period without cost and that the source of repayment will most likely be a replacement membership has led him to value this liability at zero. Through June 30, 2012 these deposits amounted to \$41,960,000.

Funds in the amount of \$210,000 have been escrowed with the county with regard to this property. This asset is reflected in this financial statement under the caption "Escrow and Reserve Deposits and Prepaid Expenses."

3. REAL AND OPERATING PROPERTIES (CONTINUED):

Trump National Golf Club in Los Angeles, California

Mr. Trump, through a wholly owned entity, acquired a property that he has developed into a world-class golf course and club on the bluffs of the southern most point of the Palos Verdes Peninsula in California. The course, originally designed by Pete Dye, has been totally redesigned by Mr. Trump and features panoramic views of the Pacific Ocean and Catalina Island from every hole. The course offers a world-class driving range and water features on a number of holes. The clubhouse boasts fine dining in two Zagat rated restaurants, a players' lounge, and a bar and banquet facility which can host special events for up to 350 people.

In addition to the Club, Trump National Golf Club is presently zoned for 75 home sites with unparalleled ocean and golf course views. At June 30, 2012, there were 52 home sites available for sale.

Trump National Golf Club in Bedminster, New Jersey

Mr. Trump, through a wholly owned entity, acquired a property consisting of 580 acres that has been developed into a world-class 36 hole golf course and club in Bedminster, New Jersey. The Club was designed by Tom Fazio and opened in the summer of 2004. The Club can currently accommodate 700 members. There are 6 cottages available for rental by members. In addition to the golf course, members have the use of an Olympic sized swimming pool, tennis courts, banquet facilities, casual dining facilities and a facility with ten single bedroom suites in addition to a state-of-the-art conference room and fitness facility. Construction of the men's \$5,000,000 locker room which houses 600 full length lockers has recently been completed. Plans are underway to renovate the woman's locker room and to begin construction on a new meeting/grill room. Prior to June 1, 2010, one condition of membership was the contribution of a non-interest bearing deposit that does not require repayment until thirty years after receipt, and then only upon the member's resignation. The fact that Mr. Trump will have the use of these funds for that period without cost and that the source of repayment will most likely be a replacement membership has led him to value this liability at zero. Through June 30, 2012 these deposits amounted to \$48,280,000.

3. REAL AND OPERATING PROPERTIES (CONTINUED):

Trump National Golf Club in Colts Neck, New Jersey

Mr. Trump, through wholly owned entities, acquired a property now known as Trump National Golf Club, Colts Neck. The club originally designed by Jerry Pate and refined by Tom Fazio II combines a world class golf course, with an aquatic facility, tennis complex and a 75,000 square foot clubhouse. The Club can accommodate 375 members. Prior to June 1, 2010, one condition of membership was the contribution of a non-interest bearing deposit that does not require repayment until certain terms are met and then only upon the member's resignation. The fact that Mr. Trump will have the use of these funds for that period without cost and that the source of repayment will most likely be a replacement membership has led him to value this liability at zero. Through June 30, 2012 these deposits amounted to \$13,545,000.

The real property owned by the club is subject to a mortgage loan at June 30, 2012, in the amount of \$14,270,000. The loan bears an interest of 6% and matures on September 9, 2028.

Trump National Golf Club in Washington D.C.

Mr. Trump, through wholly owned entities, acquired a property now known as Trump National Golf Club, Washington, D.C. This club, just a short distance from the nation's capital, is comprised of two 18-hole courses built by Tom Fazio and Arthur Hills, respectively, and is located on over 600 acres with vast frontage on the beautiful historic Potomac River. Construction has been completed to expand the 50,000 square foot clubhouse with enlarged dining space. Additionally, the underground cart facility and the fitness, tennis and swimming facilities have been renovated and redesigned, creating amenities which will complement the state of the art facilities. Prior to June 1, 2010, one condition of membership was the contribution of a non-interest bearing deposit that does not require repayment until certain terms are met, and then only upon the member's resignation. The fact that Mr. Trump will have the use of these funds for that period without cost and that the source of repayment will most likely be a replacement membership has led him to value this liability at zero. Through June 30, 2012 these deposits amounted to \$17,040,000.

The real property owned by the club is subject to a purchase money promissory note that has a balance at June 30, 2012 of \$9,090,000 and bears interest at the rate of 5.5%. The note will mature on May 1, 2029.

3. REAL AND OPERATING PROPERTIES (CONTINUED):

Trump International Golf Club in Scotland

Mr. Trump, through wholly owned entities, acquired 500 hectares of land on the north-east coast of Aberdeenshire. The development received outline planning permission in December 2008 for a world class, Martin Hawtree designed championship links golf course suitable for hosting major events, a second future award winning 18-hole course, a luxury clubhouse, a state of the art driving range and golf academy, a tennis centre, an equestrian centre, a luxury five-star 450 room hotel with associated conference and banquet facilities, a full-services spa, a residential village consisting of 950 holiday homes and 500 single family residences and 36 golf villas. In June 2010, Mr. Trump received detailed approval of the master plan and championship golf course design and construction commenced shortly thereafter. The first golf course was completed ahead of schedule and opened for business in July 2012. Golf tee time reservations are fully booked for the 2012 season and thousands of reservations have been placed for the upcoming 2013 season. The course has been the subject of worldwide media attention and has already been ranked in several "Top Ten" lists. Discussions with both the PGA European Tour and the Royal & Ancient concerning hosting various major professional golf tournaments are ongoing. All onsite infrastructure required to operate a golf course (including utilities and roads) are complete. The Golf House (clubhouse), which includes a pro shop and restaurant, is also open and fully operational. Renovations to the MacLeod House and the Menie Park Lodge are scheduled to be completed by the end of 2012, which will include 19 luxury suite accommodations and an additional restaurant.

Trump National Golf Club in Hudson Valley, New York

In 2009, entities wholly owned by Mr. Trump acquired a 300 acre property now known as Trump National Golf Club, Hudson Valley in Hopewell Junction, New York. The 18 hole championship course, is framed by breathtaking views of the Stormville Mountains and is complimented by a traditional Adirondack-style clubhouse. Improvements to the amenities include new 5,000 square foot men's and women's locker rooms for the members at the club. Also, construction of an Olympic sized swimming complex is substantially complete. Prior to June 1, 2010, one condition of membership was the contribution of a non-interest bearing deposit that does not require repayment until certain terms are met, and then only upon the member's resignation. The fact that Mr. Trump will have the use of these funds for that period without cost and that the source of repayment will most likely be a replacement membership has led him to value this liability at zero. Through June 30, 2012 these deposits amounted to \$1,230,000.

3. REAL AND OPERATING PROPERTIES (CONTINUED):

Trump National Golf Club - Philadelphia

In 2009, entities wholly owned by Mr. Trump acquired a 365 acre property now known as Trump National Golf Club - Philadelphia. With magnificent views of the Philadelphia skyline, Trump National Golf Club - Philadelphia, located in Pine Hill, New Jersey was designed by Tom Fazio. The course has an 80,000 square foot Kentucky Blue grass two-tiered practice area. The 43,000 square foot clubhouse offers a sophisticated yet elegant feel for members and guests. Construction will begin this fall on the aquatic center. Plans are currently underway for a bistro. Prior to June 1, 2010, one condition of membership was the contribution of a non-interest bearing deposit that does not require repayment until certain terms are met, and then only upon the member's resignation. The fact that Mr. Trump will have the use of these funds for that period without cost and that the source of repayment will most likely be a replacement membership has led him to value this liability at zero. Through June 30, 2012 these deposits amounted to \$900,000.

Trump National Doral

On June 11, 2012, entities wholly owned by Donald J. Trump acquired the Doral Golf Resort & Spa in Miami, Florida. Home to a PGA event every year since its opening over 50 years ago, as newly named, Trump National Doral is located on over 650-acres of prime Miami real estate and includes ten lodges totaling 693 guestrooms; five pristine golf courses including the world renown Blue Monster; over 90,000 sq.-ft. of meeting space including the 24,000 sq.-ft. Legends Ballroom; a sprawling 48,000 sq.-ft. spa with 33 treatment rooms; the Jim McLean Golf School; six signature restaurants; multiple retail boutiques; and a private members' club. The hotel and spa portion of the property have plans for a spectacular multi-million renovation and will remain fully operational throughout the renovation, which is expected to conclude in the Fall 2013.

The property is subject to a loan payable in the amount of \$125,000,000 as of June 30, 2012. The first tranche in the amount of \$106,000,000 is due on June 10, 2017. The second tranche in the amount of \$19,000,000 is due on June 10, 2014, but may be extended until June 10, 2017, under certain conditions. The interest rate on both tranches may be determined by the borrower at either libor plus 2.25% or prime minus .50%. The interest rate at June 30, 2012 was 2.7188%.

3. REAL AND OPERATING PROPERTIES (CONTINUED):

Trump National Golf Club in Charlotte, North Carolina

Trump National Golf Club Charlotte is one of the newest additions to the award-winning Trump Golf portfolio. This beautiful property located 30 minutes from Charlotte, fronts Lake Norman in the picturesque countryside of Mooresville. The Greg Norman designed golf course has more than two-thirds of the holes directly along or over the water, which presents challenges to golfers of all skill levels. The unique country-village designed property coupled with a state of the art Clubhouse, world-class tennis facilities, large swimming complex, fitness facility, game rooms and other amenities make Trump National Golf Club Charlotte the perfect private club for the entire family to enjoy.

The Trump World Tower at United Nations Plaza

Entities wholly owned by Donald J. Trump developed and constructed a super luxury residential condominium development at 845 United Nations Plaza in New York City. The 90-story tower has a gross area of 877,000 square feet and is 860 feet in height. The building is situated at the northwest corner of the United Nations Plaza with exposures to the United Nations Park, the East River, Midtown and Downtown Manhattan. There are 370 super luxury condominium units with ceiling heights varying from 10 to 16 feet at the uppermost floors. As of June 30, 2012, 369 units have been sold. In addition to the condominium units, a bar and a restaurant are on the ground floor level. There is a valet parking facility for 75 cars below grade. There is also a roof top antenna structure. Mr. Trump will retain and rent out these commercial spaces.

The estimated current value of \$18,200,000 reflects the net proceeds which Mr. Trump in conjunction with his associates and outside professionals expect that he will derive from the sale of the final unit based on current pricing, as well as the residual value of the commercial space which will be retained by Mr. Trump.

100 Central Park South

Entities wholly owned by Mr. Trump have developed 100 Central Park South in New York City. The property, which is known as Trump Parc East Condominium, consists of an 81-unit luxury apartment house located at the corner of Central Park South and The Avenue of the Americas. The property also contains a commercial condominium unit that is currently leased to three retail tenants. Through June 30, 2012, units with a value of \$53,060,000 have been sold.

The current value of \$32,700,000 reflects the net proceeds which Mr. Trump in conjunction with his associates and outside professionals expect that he will derive from residential unit sales during periods subsequent to June 30, 2012 based on current pricing.

3. REAL AND OPERATING PROPERTIES (CONTINUED):

Trump Plaza - Commercial and Retained Residential Portions

Entities wholly owned by Donald J. Trump developed Trump Plaza in 1983 which was sold pursuant to a cooperative offering plan. The property is located on Third Avenue between East 61st and East 62nd Streets in New York City. The assets reflected in this statement represent certain residual interests that entities wholly owned by Mr. Trump still own. These consist of two residential units, a long-term leasehold interest in two residential townhouses, each consisting of four residential units, a parking garage and commercial space.

The estimated current value of \$30,100,000 is based upon an assessment made by Mr. Trump in conjunction with his associates and outside professionals expected to be derived from rental activities pursuant to the leases, as well as the residual value of the properties.

The interest that Mr. Trump's entities have in the two residential townhouses, the parking garage and the commercial space has been pledged as collateral with respect to a loan payable. As of June 30, 2012, the amount of this debt was \$8,300,000. The note matures on August 11, 2014 and bears interest at the rate of 5.7%.

Funds in the amount of \$110,000 have been escrowed pursuant to the terms of this loan. This asset is reflected in this financial statement under the caption "Escrow and Reserve Deposits and Prepaid Expenses."

Trump Palace, Trump Parc and Trump Parc East Condominiums - Commercial Portions

Entities wholly owned by Mr. Trump have developed the aforementioned properties and the only areas that remained unsold as of June 30, 2012 were:

- 31 storage units at Trump Palace Condominium
- 38 storage units and a parking garage at Trump Parc Condominium
- the commercial condominium elements at Trump Parc East Condominium

The estimated current value of \$13,000,000 was based on an assessment made by Mr. Trump in conjunction with his associates of the value of the various properties described above.

3. REAL AND OPERATING PROPERTIES (CONTINUED):

Trump International Hotel and Tower - New York, New York

Donald J. Trump has redeveloped the former Paramount Building at One Central Park West in New York City from an office tower into a luxury residential and hotel condominium development.

Although all units in the property have been sold, entities wholly owned by Mr. Trump will continue to receive certain fees relating to on-going property operations.

The estimated current value of \$27,600,000 was based upon an assessment made by Mr. Trump in conjunction with his associates and outside professionals of the remaining compensation which he and entities which he owns will derive as a result of hotel and rental operations, as well as the value ascribed to the retained commercial condominium elements of the property. These are the garage facility, the restaurant and an easement with respect to the rooftop area, all of which are now owned by entities wholly owned by Mr. Trump.

The interest that Mr. Trump's entity has in this property has been pledged as collateral with respect to a loan payable. As of June 30, 2012, the amount of this debt was \$7,000,000 with an interest rate of 6.18% and which matures on July 11, 2016.

Funds in the amount of \$210,000 have been escrowed pursuant to the terms of this loan. This asset is reflected in this financial statement under the caption "Escrow and Reserve Deposits and Prepaid Expenses".

Mansion at Seven Springs

An entity wholly owned by Mr. Trump acquired a property known as The Mansion at Seven Springs in Bedford, New York which consists of over 200 acres of land, a mansion and other buildings. This property is zoned for 9 luxurious homes. It has been valued at \$291,000,000 based on an assessment made by Mr. Trump in conjunction with his associates of the projected net cash flow which he would derive as those units are constructed and sold, and the estimated fair value of the existing mansion and other buildings.

This property is the subject of a mortgage payable that had a balance due at June 30, 2012 of \$7,520,000 with an interest rate of 5.25%. This mortgage will mature on July 1, 2014.

Funds in the amount of \$80,000 have been escrowed pursuant to the terms of this loan. This asset is reflected in this financial statement under the caption "Escrow and Reserve Deposits and Prepaid Expenses."

4. PARTNERSHIPS AND JOINT VENTURES:

Estimates of the current value of Mr. Trump's interests in partnerships and joint ventures reflect his interest therein and are determined on various bases, as described below.

1290 Avenue of the Americas in New York, New York and 555 California Street in San Francisco, California

In May 2007, Donald J. Trump and Vornado Realty Trust became partners in two properties; 1290 Avenue of the Americas located in New York City and 555 California Street (formally known as Bank of America Center) located in San Francisco, California.

1290 Avenue of the Americas consists of an office tower and retail space containing approximately 2,000,000 leasable square feet housing such tenants as Microsoft, AXA Equitable, Cushman & Wakefield, and Columbia University.

555 California Street consists of one retail and two office buildings comprising approximately 1,700,000 leasable square feet along with a subterranean garage. Bank of America, Goldman Sachs, UBS Financial Services, Citigroup, and Wells Fargo are a few of the tenants.

Mr. Trump owns 30% of these properties.

The estimated current value, net of debt, of \$823,300,000 is based on an evaluation made by Mr. Trump in conjunction with his associates and outside professionals. This valuation was arrived at by applying a rate cap to the net operating income and taking into consideration any debt and return of capital.

Miss Universe Pageants

In 1996, Donald J. Trump and CBS acquired all of the assets that together are the "Miss Universe Pageants." In 2002 NBC became a 50% joint venture participant in those activities, replacing CBS. The company produces the Miss Universe Pageant, the Miss USA Pageant, as well as the Miss Teen USA Pageant. The pageants have been redefined to present the combination of style and intelligence that define the woman of the new millennium.

The alliance with NBC has enabled the Miss Universe Organization to bring together women from around the world in the spirit of first-class competition. The resultant prime-time network television specials are broadcast live to a worldwide audience. As a result of this notoriety, site fees for Miss Universe events far exceed those paid to similar organizations. The estimated current value of \$15,000,000 was based on an assessment made by Mr. Trump in conjunction with his associates and outside professionals.

5. REAL ESTATE LICENSING DEVELOPMENTS:

As stated in Note 1, this financial statement does not reflect the value of Donald J. Trump's worldwide reputation, except to the extent it has become associated with properties either operative or under development. His recognized persona has evolved to the extent that it has become an internationally recognized brand name. The resultant prestige significantly enhances the value of the properties with which he is associated. The goodwill attached to the Trump name has proven financial value in that potential users of real property around the world have demonstrated willingness to pay a significant premium for ownership or use of a Trump related residence. As a result, other developers of quality properties have approached Mr. Trump with proposals for joint ventures involving ways in which his organization's development skill and reputation will bring enhanced value to them.

Mr. Trump has formed numerous associations with others for the purpose of developing properties and is currently negotiating with others. The estimated current value of \$85,000,000 was based on an assessment made by Mr. Trump in conjunction with his associates and outside professionals of the cash flow that is expected to be derived by him from these associations as their potential is realized. In preparing that assessment, Mr. Trump and his management considered only situations which have evolved to the point where signed arrangements with the other parties exist and fees and other compensation which he will earn are reasonably quantifiable.

Terms of the agreements vary and might involve defined compensation per unit or contingent fees based on parameters such as selling prices or gross profit levels, upfront guaranteed fees, a percentage of gross revenues and various management agreements (ex. hotel, condo, food and beverage, etc.). The process utilized by management to select the people and properties with which the Trump name will be associated is extremely selective; each must enhance Mr. Trump's reputation.

Mr. Trump has pledged \$19,760,000 of the fees derived on certain of these agreements to his former partner in The Trump World Tower at United Nations Plaza. This debt is reflected in this financial statement as a liability under the caption "Mortgages and loans payable secured by other assets".

6. OTHER ASSETS:

Trump Tower

Mr. Trump owns a triplex apartment on the top three floors of Trump Tower (see Note 3).

6. OTHER ASSETS (CONTINUED):

Palm Beach, Florida

Mr. Trump owns two homes that are located in Palm Beach, Florida, adjacent to Mar-a-Lago Club.

Mr. Trump's interests in these properties in Florida have been pledged as collateral with respect to two loans. One loan had a balance at June 30, 2012 of \$270,000 and bears an interest rate of 1.75% per annum above the rate known as the six-month London Interbank Offering Rate as it is fixed at certain points in time and at June 30, 2012 was 2.4375%. This loan will mature on January 1, 2019. The other loan had a balance at June 30, 2012 of \$620,000 and bears an interest rate of 1.50% per annum above the rate known as the six-month London Interbank Offering Rate as it is fixed at certain points in time and at June 30, 2012 was 2.3125%. This loan will mature on February 1, 2019.

Beverly Hills, California

Mr. Trump, through wholly owned entities, owns a home located in Beverly Hills, California. This property is located at the intersection of Canon, Rodeo, and Sunset in an area of Beverly Hills known as the "flats". The home is directly across the street from the world famous Beverly Hills Hotel on what many call the most desirable lot in the city due to its unmatched location.

Corporate Aircrafts

Entities owned by Donald J. Trump own a Boeing 757 jet and two Sikorsky helicopters.

Trump Golf Links at Ferry Point

Trump Golf Links at Ferry Point will be an 18 hole public golf course located in the Bronx, NY, with beautiful views of the Manhattan skyline. The Jack Nicklaus Signature Design is currently slated to open in 2014, which includes plans for a \$10 million clubhouse, a state of the art driving range and practice facility with lights for nighttime use. Mr. Trump is working very closely with Mayor Bloomberg's office for this to become the greatest public golf course and facility in New York City.

6. OTHER ASSETS (CONTINUED):

Other

Mr. Trump and entities that he owns, control several other active businesses as well as other assets. The assets related to these interests include:

- a 2,000 acre vineyard in Charlottesville, Virginia along with a carriage museum, office building and several other buildings
- licenses to operate and manage the Wollman Rink which was reconstructed by Mr. Trump in 1986 and the landmark Carousel in Central Park
- an international talent/model agency
- a management company that supervises the operation of condominium properties, as well as Mr. Trump's own properties
- receivables representing amounts earned to date and contract rights with regard to future performances on television
- loans to family members

Funds in the amount of \$640,000 have been escrowed pursuant to the terms of Mr. Trump's contractual commitments at the Wollman Rink, Carousel in Central Park and Trump Golf Links at Ferry Point. This asset is reflected in this financial statement under the caption "Escrow and Reserve Deposits and Prepaid Expenses."

7. ACCOUNTS PAYABLE AND ACCRUED EXPENSES:

Accounts payable and accrued expenses represents incidental amounts owed by Donald J. Trump personally, and amounts owed by wholly-owned operating entities.

8. COMMITMENTS AND CONTINGENCIES:

Mr. Trump also has personal responsibilities with respect to various employment contracts, construction contracts, loan agreements, purchase commitments and other commitments. These include recourse obligations concerning partnership indebtedness, guarantees relating to the completion and environmental acceptance of certain projects.

Mr. Trump and his affiliates are parties to various lawsuits and legal actions. At the present time, the outcome of those proceedings cannot be estimated. Mr. Trump believes that these legal actions will not have a material effect on his financial position.

Various taxing authorities are currently auditing Mr. Trump and certain of his affiliates. At the present time, the outcome of these examinations cannot be determined.

Mr. Trump periodically maintains funds on deposit in banking institutions in excess of FDIC insured amounts. He is at risk for any amounts exceeding the FDIC limitation.

9. SUBSEQUENT EVENTS:

Mr. Trump has evaluated subsequent events through October 12, 2012, the date the financial statement was available for issuance.

Donald J. Trump
Summary of Net Worth
As of March 31, 2013

ASSETS

Cash & Marketable Securities - as reflected herein is after the acquisition of numerous assets (i.e. multiple aircraft, land, golf courses, etc), the paying off of significant mortgages for cash and before the collection of significant receivables.	346,100,000
Escrow and reserve deposits and prepaid expenses	10,780,000
<u>Real & Operating Properties owned 100% by Donald J. Trump through various entities controlled by him:</u>	
Commercial Properties (New York City)	1,381,350,000
Residential Properties (New York City)	351,550,000
Club facilities & related real estate	1,570,300,000
Property under Development	291,000,000
<u>Real Properties owned less than 100% by Donald J. Trump</u>	
1290 Avenue of the Americas - New York City	
Bank of America Building - San Francisco, California	
Total Value Net of Debt	823,300,000
Real Estate Licensing Deals	74,140,000
Miss Universe, Miss USA and Miss Teen USA Pageants	15,000,000
Other Assets (net of debt)	302,610,000
Brand Value	<u>4,000,000,000</u>
Total Assets	9,166,130,000

LIABILITIES

Accounts payable	4,400,000
<u>Loans and mortgages payable on Real and Operating Properties owned 100% by Donald J. Trump</u>	
Commercial Properties (New York City)	321,690,000
Residential Properties (New York City)	22,190,000
Club facilities	148,360,000
Property under development	<u>7,520,000</u>
Total Liabilities	<u>504,160,000</u>
NET WORTH	<u>8,661,970,000</u>

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

DONALD J. TRUMP; THE TRUMP
ORGANIZATION, INC.; TRUMP
ORGANIZATION LLC; THE TRUMP
CORPORATION; DJT HOLDINGS LLC;
THE DONALD J. TRUMP REVOCABLE
TRUST; and TRUMP OLD POST OFFICE
LLC,

Plaintiffs,

v.

MAZARS USA LLP,

Defendant,

and

COMMITTEE ON OVERSIGHT AND
REFORM OF THE U.S. HOUSE OF
REPRESENTATIVES,

Intervenor-Defendant.

SUPPLEMENTAL DECLARATION OF WILLIAM S. CONSOVOY

1. I am an attorney at the law firm Consovoy McCarthy Park PLLC and counsel for plaintiff President Donald J. Trump in his personal capacity.

2. I am over the age of eighteen and under no mental disability or impairment. I have personal knowledge of the following facts and, if called as a witness, would competently testify to them.

3. Exhibit A to this supplemental declaration is a true and accurate copy of a March 20, 2019 letter from Chairman Elijah E. Cummings to the Chairman and CEO of Defendant Mazars. As of today, it can be downloaded from the House Committee on Oversight and Reform's website at <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/documents/2019-03-20.EEC%20to%20Wahba-Mazars.pdf>.

4. Exhibit B is a true and accurate copy of a March 27, 2019 letter from Ranking Members Jim Jordan and Mark Meadows to Chairman Cummings. As of today, it can be downloaded from the House Committee on Oversight and Reform's Minority page at <https://republicans-oversight.house.gov/wp-content/uploads/2019/03/2019-03-27-JDJ-MM-to-EEC-re-Mazars-Letter.pdf>.

5. Exhibit C is a true and accurate copy of an April 12, 2019 memorandum from Chairman Cummings to the Committee. As of today, a copy of the memorandum can be found online at <https://www.politico.com/f/?id=0000016a-131f-da8e-adfa-3b5f319d0001>.

6. Exhibit D is a true and accurate copy of an April 15, 2019 cover letter and memorandum from Ranking Member Jordan to Chairman Cummings. As of today, it can be downloaded from the Committee's Minority page at <https://republicans-oversight.house.gov/wp-content/uploads/2019/04/2019-04-15-JDJ-to-EEC-re-Mazars-Subpoena.pdf>.

7. Exhibit E is a true and accurate copy of an April 17, 2019 letter from Ranking Member Jordan to Chairman Cummings. As of today, it can be downloaded from the Committee's Minority page at <https://republicans-oversight.house.gov/wp-content/uploads/2019/04/2019-04-17-JDJ-to-EEC-re-Mazars-subpoena.pdf>.

8. Exhibit F is an Axios article from November 12, 2018 titled "Democrats Load a 'Subpoena Cannon' with 85+ Trump Targets." As of today, it can be downloaded from Axios' website at <https://wwwaxios.com/house-democrats-subpoenas-trump-administration-cf3ed351-ff11-4498-89f4-cee588145198.html>.

9. Exhibit G is a Vox article from January 3, 2019 titled "The 10 New Democratic House Committee Chairs Who Are About to Make Trump's Life Hell." As of today, it can be downloaded from Vox's website at <https://www.vox.com/2019/1/3/18134919/congress-house-2019-committee-investigations-trump-impeachment>.

10. Exhibit H is a Politico article from January 7, 2019 titled “House Democrats Prepare a Fusillade of Trump Investigations.” As of today, it can be downloaded from Politico’s website at <https://www.politico.com/story/2019/01/07/congress-house-democrats-trump-subpoenas-oversight-1082563>.

11. Exhibit I is a Washington Post article from March 28, 2019 titled “How Donald Trump Inflated His Net Worth the Lenders and Investors.” As of today, it can be downloaded from the Washington Post’s website at https://www.washingtonpost.com/graphics/2019/politics/trump-statements-of-financial-condition/?noredirect=on&utm_term=.384ed21f1a81.

12. Exhibit J is a Politico article from May 1, 2019 titled “Democrats Weigh a ‘Benghazi’ Trump’ Strategy.” As of today, it can be downloaded from Politico’s website at <https://www.politico.com/story/2019/05/01/democrats-hearings-impeachment-trump-benghazi-1295266>.

Per 28 U.S.C. §1746, I declare under penalty of perjury that the above is true and correct to the best of my knowledge.

Executed on May 13, 2019.

s/ William S. Consovoy

Exhibit A

Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND REFORM

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

MAJORITY (202) 225-5051
MINORITY (202) 225-5074

<http://oversight.house.gov>

March 20, 2019

Mr. Victor Wahba
 Chairman and Chief Executive Officer
 Mazars USA LLP
 135 West 50th Street
 New York, N.Y. 10020

Dear Mr. Wahba:

The Committee is requesting documents related to services provided by your firm or its predecessor, WeiserMazars LLP, to Donald J. Trump and the Trump Organization.

On February 27, 2019, the President's former attorney, Michael Cohen, testified before the Committee that President Trump changed the estimated value of his assets and liabilities on financial statements prepared by your company—including inflating or deflating the value of assets depending on the purpose for which he intended to use the statements.

For instance, Mr. Cohen testified that President Trump provided inflated financial statements “to Deutsche Bank on one occasion where I was with them in our attempt to obtain money so that we can put a bid on the Buffalo Bills.” Mr. Cohen also testified that the President provided financial statements with inflated assets to an insurance company. Mr. Cohen further testified that President Trump may have deflated certain assets to “reduce his real estate taxes.” He explained: “What you do is you deflate the value of the asset, and then you put in a request to the tax department for a deduction.”¹

Mr. Cohen produced to the Committee financial statements from 2011, 2012, and 2013 that raise questions about the President's representations of his financial affairs on these forms and on other disclosures, particularly relating to the President's debts. Several of these documents appear to have been signed by your firm. However, they also included the following note:

The objective of a compilation is to assist Donald J. Trump in presenting financial information in the form of financial statements without undertaking to obtain or provide

¹ Committee on Oversight and Reform, *Hearing with Michael Cohen, Former Attorney to President Trump* (Feb. 27, 2019).

Mr. Victor Wahba

Page 2

any assurance that there are no material modifications that should be made to the financial statement.²

Some of the specific concerns raised by the financial statements include the following:

- Net Worth. In a nine-month period between June 30, 2012, and March 31, 2013, the value of the President's assets appears to have skyrocketed by \$4.2 billion. The bulk of this increase—\$4 billion—is attributable to a single line item for “Brand Value” that was absent in the President’s financial statements for 2011 or 2012. It is unclear how this item was valued, why it was included in 2013 but not in prior years, and whether the President or someone else directed your firm to insert it.
- Omission of Chicago and Las Vegas Real Estate Assets and Liabilities. The 2012 Statement of Financial Condition prepared by your firm states:

The accompanying statement of financial condition does not include the following for Trump International Hotel & Tower Chicago and Trump International Hotel & Tower Las Vegas: 1) real property and related assets, 2) mortgages and loans payable, and 3) guarantees which Donald J. Trump may have provided.

According to the first publicly filed financial disclosure made by then-Candidate Trump in 2015, President Trump incurred more than \$75 million in debt connected to the Chicago property in 2012. According to the same financial disclosure, the President also valued assets connected to his Las Vegas holdings at more than \$50 million.³ It is unclear why certain debts connected to the Chicago property and assets related to the Las Vegas property were omitted and whether the omission was directed by President Trump or someone else.

- Valuation of “Real Estate Licensing Developments.” Under a section entitled “Real Estate Licensing Developments,” the 2011 financial statement states:

[T]his financial statement does not reflect the value of Donald J. Trump’s worldwide reputation, except to the extent it has become associated with properties either operative or under development. … The goodwill attached to the Trump name has proven financial value in that potential users of real property around the world have demonstrated willingness to pay a significant premium for ownership or use of a Trump related residence. … Mr. Trump has formed numerous associations with others

² See, e.g., WeiserMazars LLP, Donald J. Trump: Statement of Financial Condition (June 30, 2011) (on file with Committee).

³ Office of Government Ethics, *OGE Form 278e for Donald J. Trump* (July 15, 2015) (online at www.documentcloud.org/documents/3035802-Donald-Trump-2015-Financial-Disclosure.html).

Mr. Victor Wahba

Page 3

for the purpose of developing properties and is currently negotiating with others. The estimated current value of \$110,000,000 was based on an assessment made by Mr. Trump in conjunction with his associates and outside professionals.

The 2012 financial statement includes the same note under “Real Estate Licensing Developments,” but the “estimated current value” for the line item that year was \$85,000,000.

- Other Liabilities. Also under the “Real Estate Licensing Developments” section, both the 2011 and 2012 financial statements state:

Mr. Trump has pledged \$19,760,000 of the fees derived on certain of these agreements to his former partner in the Trump World Tower at United Nations Plaza. This debt is reflected in this financial statement as a liability under the caption “Mortgages and loans payable secured by other assets.”

According to contemporaneous reports during construction of Trump World Tower, the President’s former partner was the Korean conglomerate Daewoo, which was dissolved following a widespread corruption investigation, as well as Deutsche Bank and another German financial institution.⁴ It is unclear to whom President Trump owed this debt and whether he still owes it.

- Interest Rate from Deutsche Bank Reduced. According to the 2012 Statement of Financial Condition, President Trump obtained a \$125 million loan from Deutsche Bank for the Trump National Doral at the rate of either the London Interbank Offered Rate (LIBOR) plus 2.25% or prime minus 0.50%. However, in the President’s 2015 public financial disclosure—filed shortly after he became a federal candidate for office—the interest rate for the loans was listed at reduced rates: LIBOR plus 1.75% or prime minus 0.75%. Under the LIBOR formula, the reduction represents about \$625,000 less in interest payments on the full principal owed by President Trump per year.
- Non-Interest-Bearing Membership Deposits. The 2011 and 2012 financial statements indicate that President Trump received significant membership deposits at his golf clubs that do not accrue interest but require repayment thirty years after receipt if the member resigns or certain terms are met. These deposits totaled \$188 million in 2011 and \$157 million in 2012. For several of the clubs, the statements explain: “The fact that Mr. Trump will have the use of these funds for that period without cost and that the source of repayment will most likely be a replacement membership has led him to value this liability at zero.”

⁴ *Trump Starts a New Tower Near the U.N.*, New York Times (Oct. 16, 1998) (online at www.nytimes.com/1998/10/16/nyregion/trump-starts-a-new-tower-near-the-un.html).

Mr. Victor Wahba

Page 4

To assist our review of these issues, please provide the following documents and information to the Committee by April 3, 2019:

With respect to Donald J. Trump, Donald J. Trump Revocable Trust, the Trump Organization Inc., the Trump Organization LLC, the Trump Corporation, DJT Holdings LLC, the Trump Old Post Office LLC, the Trump Foundation, and any parent, subsidiary, affiliate, joint venture, predecessor, or successor of the foregoing:

1. All statements of financial condition, annual statements, periodic financial reports and independent auditors' reports prepared, compiled, reviewed, or audited by Mazars USA LLP or its predecessor, WeiserMazars LLP;
2. Without regard to time, all engagement agreements or contracts related to the preparation, compilation, review, or auditing of the items described in Request Number 1;
3. All underlying, supporting, or source documents and records used in the preparation, compilation, review, or auditing of items described in Request Number 1, or any summaries of such documents and records relied upon, or any requests for such documents and records; and
4. All memoranda, notes, and communications related to the preparation, compilation, review, or auditing of the items described in Request Number 1, including, but not limited to:
 - a. all communications between Donald Bender and Donald J. Trump or any employee or representative of the Trump Organization; and
 - b. all communications related to potential concerns that records, documents, explanations, or other information, including significant judgments, provided by Donald J. Trump or other individuals from the Trump Organization, were incomplete, inaccurate, or otherwise unsatisfactory.

Unless otherwise noted, the time period covered by this request is from January 1, 2009, to the present.

The Committee on Oversight and Reform is the principal oversight committee of the House of Representatives and has broad authority to investigate "any matter" at "any time" under House Rule X. In addition, House Rule X, clause 3(i) specifically charges the Committee with conducting oversight of "the operation of Government activities at all levels, including the Executive Office of the President."

An attachment to this letter provides additional instructions for responding to the Committee's request. If you have any questions regarding this request, please contact Committee staff at (202) 225-5051.

Mr. Victor Wahba
Page 5

Thank you for your prompt attention to this request.

Sincerely,



Elijah E. Cummings
Chairman

Enclosure

cc: The Honorable Jim Jordan, Ranking Member

Responding to Oversight Committee Document Requests

1. In complying with this request, produce all responsive documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, and representatives acting on your behalf. Produce all documents that you have a legal right to obtain, that you have a right to copy, or to which you have access, as well as documents that you have placed in the temporary possession, custody, or control of any third party.
2. Requested documents, and all documents reasonably related to the requested documents, should not be destroyed, altered, removed, transferred, or otherwise made inaccessible to the Committee.
3. In the event that any entity, organization, or individual denoted in this request is or has been known by any name other than that herein denoted, the request shall be read also to include that alternative identification.
4. The Committee's preference is to receive documents in electronic form (i.e., CD, memory stick, thumb drive, or secure file transfer) in lieu of paper productions.
5. Documents produced in electronic format should be organized, identified, and indexed electronically.
6. Electronic document productions should be prepared according to the following standards:
 - a. The production should consist of single page Tagged Image File ("TIF"), files accompanied by a Concordance-format load file, an Opticon reference file, and a file defining the fields and character lengths of the load file.
 - b. Document numbers in the load file should match document Bates numbers and TIF file names.
 - c. If the production is completed through a series of multiple partial productions, field names and file order in all load files should match.
 - d. All electronic documents produced to the Committee should include the following fields of metadata specific to each document, and no modifications should be made to the original metadata:

BEGDOC, ENDDOC, TEXT, BEGATTACH, ENDATTACH, PAGECOUNT, CUSTODIAN, RECORDTYPE, DATE, TIME, SENTDATE, SENTTIME, BEGINDATE, BEGININTIME, ENDDATE, ENDINTIME, AUTHOR, FROM, CC, TO, BCC, SUBJECT, TITLE, FILENAME, FILEEXT, FILESIZE, DATECREATED, TIMECREATED, DATELASTMOD, TIMELASTMOD,

INTMSGID, INTMSGHEADER, NATIVELINK, INTFILPATH, EXCEPTION, BEGATTACH.

7. Documents produced to the Committee should include an index describing the contents of the production. To the extent more than one CD, hard drive, memory stick, thumb drive, zip file, box, or folder is produced, each should contain an index describing its contents.
8. Documents produced in response to this request shall be produced together with copies of file labels, dividers, or identifying markers with which they were associated when the request was served.
9. When you produce documents, you should identify the paragraph(s) or request(s) in the Committee's letter to which the documents respond.
10. The fact that any other person or entity also possesses non-identical or identical copies of the same documents shall not be a basis to withhold any information.
11. The pendency of or potential for litigation shall not be a basis to withhold any information.
12. In accordance with 5 U.S.C. § 552(d), the Freedom of Information Act (FOIA) and any statutory exemptions to FOIA shall not be a basis for withholding any information.
13. Pursuant to 5 U.S.C. § 552a(b)(9), the Privacy Act shall not be a basis for withholding information.
14. If compliance with the request cannot be made in full by the specified return date, compliance shall be made to the extent possible by that date. An explanation of why full compliance is not possible shall be provided along with any partial production.
15. In the event that a document is withheld on the basis of privilege, provide a privilege log containing the following information concerning any such document: (a) every privilege asserted; (b) the type of document; (c) the general subject matter; (d) the date, author, addressee, and any other recipient(s); (e) the relationship of the author and addressee to each other; and (f) the basis for the privilege(s) asserted.
16. If any document responsive to this request was, but no longer is, in your possession, custody, or control, identify the document (by date, author, subject, and recipients), and explain the circumstances under which the document ceased to be in your possession, custody, or control.
17. If a date or other descriptive detail set forth in this request referring to a document is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, produce all documents that would be responsive as if the date or other descriptive detail were correct.

18. This request is continuing in nature and applies to any newly-discovered information. Any record, document, compilation of data, or information not produced because it has not been located or discovered by the return date shall be produced immediately upon subsequent location or discovery.
19. All documents shall be Bates-stamped sequentially and produced sequentially.
20. Two sets of each production shall be delivered, one set to the Majority Staff and one set to the Minority Staff. When documents are produced to the Committee, production sets shall be delivered to the Majority Staff in Room 2157 of the Rayburn House Office Building and the Minority Staff in Room 2105 of the Rayburn House Office Building.
21. Upon completion of the production, submit a written certification, signed by you or your counsel, stating that: (1) a diligent search has been completed of all documents in your possession, custody, or control that reasonably could contain responsive documents; and (2) all documents located during the search that are responsive have been produced to the Committee.

Definitions

1. The term “document” means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, data, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, communications, electronic mail (email), contracts, cables, notations of any type of conversation, telephone call, meeting or other inter-office or intra-office communication, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, microfiche, microfilm, videotape, recordings and motion pictures), and electronic, mechanical, and electric records or representations of any kind (including, without limitation, tapes, cassettes, disks, and recordings) and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape, or otherwise. A document bearing any notation not a part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.
2. The term “communication” means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether in a meeting, by telephone, facsimile, mail, releases, electronic

message including email (desktop or mobile device), text message, instant message, MMS or SMS message, message application, or otherwise.

3. The terms “and” and “or” shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this request any information that might otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neutral genders.
4. The term “including” shall be construed broadly to mean “including, but not limited to.”
5. The term “Company” means the named legal entity as well as any units, firms, partnerships, associations, corporations, limited liability companies, trusts, subsidiaries, affiliates, divisions, departments, branches, joint ventures, proprietorships, syndicates, or other legal, business or government entities over which the named legal entity exercises control or in which the named entity has any ownership whatsoever.
6. The term “identify,” when used in a question about individuals, means to provide the following information: (a) the individual’s complete name and title; (b) the individual’s business or personal address and phone number; and (c) any and all known aliases.
7. The term “related to” or “referring or relating to,” with respect to any given subject, means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with, or is pertinent to that subject in any manner whatsoever.
8. The term “employee” means any past or present agent, borrowed employee, casual employee, consultant, contractor, de facto employee, detailee, fellow, independent contractor, intern, joint adventurer, loaned employee, officer, part-time employee, permanent employee, provisional employee, special government employee, subcontractor, or any other type of service provider.
9. The term “individual” means all natural persons and all persons or entities acting on their behalf.

Exhibit B

JA100

Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND REFORM

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

MAJORITY (202) 225-5051
MINORITY (202) 225-5074

<http://oversight.house.gov>

March 27, 2019

The Honorable Elijah E. Cummings
 Chairman
 2157 Rayburn House Office Building
 U.S. House of Representatives
 Washington, DC 20515

Dear Mr. Chairman:

We are in receipt of a letter dated March 20, 2019, from you to Mr. Victor Wahba of Mazars USA LLP, a global tax and accountancy firm, seeking documents relating to the finances of the President of the United States years before he entered office.¹ Your inquiry seems to examine facts relating to a transaction that never materialized involving the Buffalo Bills of the National Football League. Your letter cites testimony and material from Michael Cohen, a convicted perjurer who was your first announced witness of the 116th Congress, to request wide-ranging information about the President Trump's financial documents from six to eight years ago—well before the President was even a candidate for the presidency.

Under House Rule X, you have broad latitude to investigate “any matter at any time.”² However, we rely on you to exercise your authority as Chairman with good judgment so that the Committee’s work focuses on improving the overall economy, efficiency and effectiveness of the federal government or bettering the lives of the American people.

Your inquiry to Mr. Wahba about the private finances of citizen Donald J. Trump appears to depart from responsible and legitimate oversight. It appears instead that you seek material from Mr. Wahba solely to embarrass President Trump and to advance the relentless Democrat attacks upon the Trump Administration.

Mr. Chairman, our time is short. We should not waste our limited resources and energies on matters that do not improve the operations of the federal government or better the lives of our constituents. We urge you to reconsider your ill-conceived inquiry into the finances of President Trump when he was a private citizen.

The American people sent us here to make government work better for them. The 116th Congress is still young. There is still time to pivot away from your repeated partisan attacks on

¹ Letter from Elijah E. Cummings, Chairman, H. Comm. on Oversight & Reform, to Victor Wahba, Chairman and Chief Exec. Off., Mazars USA LLP (Mar. 20, 2019).

² House Rule X, clause 1(n).

The Honorable Elijah E. Cummings

March 27, 2019

Page 2

the President and his Administration, and instead focus on improving the operations of the federal government for the American people.

Sincerely,

A blue ink signature of the name "Jim Jordan".

Jim Jordan
Ranking Member

A blue ink signature of the name "Mark Meadows".

Mark Meadows
Ranking Member
Subcommittee on Government Operations

Exhibit C

JA103

Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND REFORM

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

MAJORITY (202) 225-5051

MINORITY (202) 225-5074

<http://oversight.house.gov>

MEMORANDUM

April 12, 2019

To: Members of the Committee on Oversight and Reform

Fr: Chairman Elijah E. Cummings

Re: Notice of Intent to Issue Subpoena to Mazars USA LLP

This memorandum provides Committee Members with notice of my intent to issue a subpoena to Mazars USA LLP for documents the company has informed the Committee it cannot produce without a subpoena. Consistent with the bipartisan agreement reached at the Committee's organizational meeting on January 29, 2019, I am attaching a copy of the subpoena and providing 48 hours for Members to convey their views. Also consistent with the agreement, I am informing Committee Members that we will not have a business meeting to consider this subpoena. We will be in recess for the next several weeks, and the calendar does not permit scheduling a mark-up without causing undue delay to the investigation. Nevertheless, I am seeking feedback through a poll of individual Member offices, which are requested to provide any information they would like to be considered on their positions with respect to this subpoena.

I. NEED FOR SUBPOENA

On February 27, 2019, President Trump's longtime former attorney, Michael Cohen, testified before the Committee that the President altered the estimated value of his assets and liabilities on financial statements—including inflating or deflating the value of assets depending on the purpose for which he intended to use the statements.¹

Recent news reports have raised additional concerns regarding the President's financial statements and representations.²

¹ Committee on Oversight and Reform, *Hearing with Michael Cohen, Former Attorney to President Donald Trump* (Feb. 27, 2019) (online at <https://oversight.house.gov/legislation/hearings/with-michael-cohen-former-attorney-to-president-donald-trump>).

² *Trump's Alleged Financial Fraud Creates an Important New Vulnerability*, MSNBC (Mar. 1, 2019) (online at www.msnbc.com/rachel-maddow-show/trumps-alleged-financial-fraud-creates-important-new-vulnerability); *How Donald Trump Inflated His Net Worth to Lenders and Investors*, Washington Post (Mar. 28, 2019) (online at www.washingtonpost.com/politics/2019/politics/trump-statements-of-financial-condition/).

To corroborate these claims, Mr. Cohen produced to the Committee financial statements from 2011, 2012, and 2013, that raise serious questions about the President's representations, particularly relating to his debts. Several statements were prepared by Mazars.

On March 20, 2019, the Committee sent a letter to Mazars requesting information on how these financial statements and other financial disclosures were prepared, including the financial statements themselves and communications relating to their preparation.³

On March 27, 2019, counsel to Mazars sent a response letter explaining that, pursuant to the company's legal obligations, Mazars cannot voluntarily turn over the documents "unless disclosure is made pursuant to, among other things, a Congressional subpoena."⁴

II. INTENT TO SEEK VIEWS OF MEMBERS

Based on this clear-cut record, I intend to issue a subpoena on Monday to obtain the documents sought by the Committee, and I intend to do so consistent with the bipartisan agreement reached during the Committee's organizational meeting on January 29, 2019.

According to that agreement, a subpoena "should be used only when attempts to reach an accommodation with a witness have reached an impasse or when necessary to obtain certain sensitive information, such as financial information, or through a so-called 'friendly' subpoena to protect a witness." That condition has been met.

The agreement also states: "The Chair intends to consult with the Ranking Member by providing his office with a physical copy of the subpoena at least two days (48 hours) before it is issued." This condition will be met by Monday.

The agreement also states: "when the Ranking Member objects, the Committee will have an open proceeding and a vote when feasible." It also states that "[t]here will be exceptions to this policy," such as when "the calendar does not permit the Committee to schedule a markup." It also states: "But even in this case, the Chair intends to be open with the Ranking Member and give him every opportunity to voice his opinion on the matter."

Consistent with this condition, I am providing this memorandum to all Members with background on the subpoena, and I encourage the Ranking Member and all other Committee Members to inform my office of their views and positions on this subpoena. This is a courtesy I was never extended in the previous eight years during which I served as Ranking Member.

³ Letter from Chairman Elijah E. Cummings, Committee on Oversight and Reform, to Victor Wahba, Chairman and Chief Executive Officer, Mazars USA LLP (Mar. 20, 2019) (online at <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/documents/2019-03-20.EEC%20to%20Wahba-Mazars.pdf>).

⁴ Letter from Jerry D. Bernstein, Counsel for Mazars USA LLP, to Chairman Elijah E. Cummings, Committee on Oversight and Reform (Mar. 27, 2019) (online at https://oversight.house.gov/sites/democrats.oversight.house.gov/files/documents/Mazars%20response%20letter%2003-27-2019_Redacted.pdf).

III. THE RANKING MEMBER'S UNPRECEDENTED ACTIONS

Finally, I want to address troubling actions taken by Ranking Member Jordan relating to this and other Committee investigations. On March 27, 2019, Ranking Member Jordan sent a letter directly to Mazars—a custodian of records being sought by the Committee—as part of an effort to urge the company not to comply with the Committee's legitimate request or cooperate with the Committee's duly authorized investigation.⁵

It is not an understatement to call the Ranking Member's action unprecedented. In my entire tenure in Congress, regardless of how much I and my Democratic colleagues may have disagreed with the Committee's actions, I never would have publicly encouraged noncompliance by a custodian of records. Obviously, such actions undermine the authority of the Committee and impair its investigations.

In his letter to Mazars, Ranking Member Jordan wrote: "We write to express to you our concerns with the Chairman's inquiry as exceeding the Committee's legislative authority under House Rule X." He also wrote: "his inquiry does not appear to have a valid legislative purpose and instead seems to seek information to embarrass a private individual."

However, the Ranking Member's letter to Mazars omitted the fact—cited repeatedly by Republican Chairmen—that under House Rule X, the Committee has broad latitude to investigate "any matter at any time." His letter also omitted the fact that documents already obtained by the Committee—on their face—raise grave questions about whether the President has been accurate in his financial reporting.

The Ranking Member's letter also omitted multiple instances in which Republicans investigated the finances of "private individuals." For example, Ranking Member Jordan personally attended the deposition of Sidney Blumenthal as part of the Benghazi investigation, during which Mr. Blumenthal was forced to answer questions about his salary and compensation from private sources—topics that had nothing to do with the attacks in Benghazi.⁶

Unfortunately, the Ranking Member's letter to Mazars is not an isolated incident. He has written similarly troubling—and baseless—letters to recipients of other legitimate Committee requests, including on skyrocketing drug prices and agency compliance with the Freedom of Information Act.

⁵ Letter from Ranking Member Jim Jordan, Committee on Oversight and Reform, and Ranking Member Mark Meadows, Subcommittee on Government Operations, to Victor Wahba, Chairman and Chief Executive Officer, Mazars USA LLP (Mar. 27, 2019) (online at <https://republicans-oversight.house.gov/wp-content/uploads/2019/03/2019-03-27-JDJ-MM-to-Wahba-Mazars-re-EEC-Letter-to-Mazars.pdf>).

⁶ Select Committee on Benghazi, *Interview of Witnesses, Volume 4 of 11, Deposition of Sidney Blumenthal*, 114th Cong. (June 16, 2015) (online at www.govinfo.gov/content/pkg/CHRG-114hrg22298/pdf/CHRG-114hrg22298.pdf).

IV. CONCLUSION

The Committee has full authority to investigate whether the President may have engaged in illegal conduct before and during his tenure in office, to determine whether he has undisclosed conflicts of interest that may impair his ability to make impartial policy decisions, to assess whether he is complying with the Emoluments Clauses of the Constitution, and to review whether he has accurately reported his finances to the Office of Government Ethics and other federal entities. The Committee's interest in these matters informs its review of multiple laws and legislative proposals under our jurisdiction, and to suggest otherwise is both inaccurate and contrary to the core mission of the Committee to serve as an independent check on the Executive Branch.

Members who wish to provide information relating to their views on this subpoena may email them by 11 a.m. on Monday, April 15, 2019, to the Clerk's office.

SUBPOENA

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES OF THE CONGRESS OF THE UNITED STATES OF AMERICA

To Mazars USA LLP

You are hereby commanded to be and appear before the
Committee on Oversight and Reform

of the House of Representatives of the United States at the place, date, and time specified below.

- to produce the things identified on the attached schedule touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of production: 2157 Rayburn House Office Building, Washington DC 20515

Date: April 29, 2019

Time: 12:00 (noon)

- to testify at a deposition touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: _____

Date: _____

Time: _____

- to testify at a hearing touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: _____

Date: _____

Time: _____

To any authorized staff member or the U.S. Marshals Service

to serve and make return.

Witness my hand and the seal of the House of Representatives of the United States, at
the city of Washington, D.C. this _____ day of _____, 20 ____.

Attest:

Chairman or Authorized Member

Clerk

SCHEDULE A

With respect to Donald J. Trump, Donald J. Trump Revocable Trust, the Trump Organization Inc., the Trump Organization LLC, the Trump Corporation, DJT Holdings LLC, the Trump Old Post Office LLC, the Trump Foundation, and any parent, subsidiary, affiliate, joint venture, predecessor, or successor of the foregoing:

1. All statements of financial condition, annual statements, periodic financial reports, and independent auditors' reports prepared, compiled, reviewed, or audited by Mazars USA LLP or its predecessor, WeiserMazars LLP;
2. Without regard to time, all engagement agreements or contracts related to the preparation, compilation, review, or auditing of the documents described in Item Number 1;
3. All underlying, supporting, or source documents and records used in the preparation, compilation, review, or auditing of documents described in Item Number 1, or any summaries of such documents and records relied upon, or any requests for such documents and records; and
4. All memoranda, notes, and communications related to the preparation, compilation, review, or auditing of the documents described in Item Number 1, including, but not limited to:
 - a. all communications between Donald Bender and Donald J. Trump or any employee or representative of the Trump Organization; and
 - b. all communications related to potential concerns that records, documents, explanations, or other information, including significant judgments, provided by Donald J. Trump or other individuals from the Trump Organization, were incomplete, inaccurate, or otherwise unsatisfactory.

Unless otherwise noted, the time period covered by this subpoena includes calendar years 2011 through 2018.

Exhibit D

JA110

Congress of the United States**House of Representatives**

COMMITTEE ON OVERSIGHT AND REFORM

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

MAJORITY (202) 225-5051
MINORITY (202) 225-5074<http://oversight.house.gov>

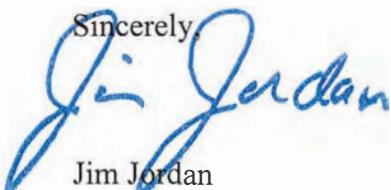
April 15, 2019

The Honorable Elijah E. Cummings
 Chairman
 Committee on Oversight and Reform
 2157 Rayburn House Office Building
 Washington, DC 20515

Dear Mr. Chairman:

On behalf of the Republican Members of the Committee, I write to strenuously object to the subpoena you intend to issue to Mazars USA LLP (Mazars). As explained in the attached memorandum, your intended action is an unprecedented abuse of the Committee's subpoena authority to target and expose the private financial information of the President of the United States. Your intended action is also a blatant violation of your promise to debate and vote on Committee subpoenas. Although there were nine legislative days following your receipt of Mazars's response letter—during which time you informed the media that you intended to subpoena Mazars—you purposefully waited for Members to return to their districts for the Easter district work period before moving forward to subpoena Mazars. This is not the fair and responsible oversight process you promised.

I urge you to seriously reconsider your intention to issue this subpoena. Your obsession with attacking the President and his family for political gain does nothing to improve the efficiency, economy, and operations of the federal government.

Sincerely,

 Jim Jordan
 Ranking Member

Enclosure

Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND REFORM

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

MAJORITY (202) 225-5051

MINORITY (202) 225-5074

<http://oversight.house.gov>

April 15, 2019

MEMORANDUM

TO: Members of the Committee on Oversight and Reform

FROM: Ranking Member Jim Jordan

SUBJECT: Chairman Cummings's Unprecedented Subpoena of Mazars USA LLP

On Friday, April 12, 2019, at 3:46 p.m., Chairman Elijah Cummings notified the Members of the Committee that he intends to issue a subpoena to Mazars USA LLP (Mazars), the global accounting firm that served private citizen Donald J. Trump.¹ This subpoena is a grave abuse of the Committee's authority and a violation of the Chairman's pledge to the Committee. Although the Rules of the House of Representatives grant Chairman Cummings broad oversight authority,² we rely on the Chairman to use it responsibly. The Chairman's decision to subpoena Mazars is not a responsible use of the Committee's oversight authority. It is also an unfortunate departure from the public promises that Chairman Cummings made just 76 days ago.

For these reasons, I reluctantly write to inform the Members of the Committee why I strongly object to Chairman Cummings's unprecedented subpoena to Mazars and his irresponsible and gravely dangerous course of conduct in a singular obsession of attacking President Trump and his family for political gain.

I. Chairman Cummings's Partisan Request for Sensitive, Personal Financial Information Is Derived Solely from Convicted Liar Michael Cohen.

On March 20, 2019, Chairman Cummings wrote to Mazars, seeking four broad categories of documents relating to the finances of eight business entities related to President Trump before he sought public office.³ Chairman Cummings requested material from as early as January 1, 2009—years before President Trump was even a candidate for federal office.⁴ The Chairman did

¹ Memorandum from Elijah E. Cummings, Chairman, H. Comm. on Oversight & Reform, to Members of the Comm. on Oversight & Reform (Apr. 12, 2019) (on file with Committee).

² House Rule X.

³ Letter from Elijah E. Cummings, Chairman, H. Comm. on Oversight & Reform, to Victor Wahba, Chairman and Chief Exec. Off., Mazars USA LLP (Mar. 20, 2019).

⁴ *Id.*

not consult with the Republican Members of the Committee before initiating his inquiry, nor has he attempted to explain why his probe has any legitimacy.

The Chairman’s March 20 letter and his April 12 memorandum cite testimony and material from Michael Cohen as justification for prying into the personal finances of President Trump.⁵ Cohen—Chairman Cummings’s first announced witness of the 116th Congress—is a convicted liar and not a credible witness. Cohen’s testimony was conceived and presented by Democrat political operative Lanny J. Davis, who boasted that he convinced the Chairman after some time to use the Committee for Cohen’s attacks against the President. In fact, Davis recently wrote the Chairman seeking a letter of recommendation to keep Cohen out of jail. Chairman Cummings has said he is still considering Davis’s request to help this convicted liar.⁶

At the February 27, 2019, Committee hearing, Cohen repeatedly lied to the Committee, perjuring himself at least seven additional times. Rather than using Cohen’s false and misleading testimony as a basis for a broad fishing expedition into the President’s personal finances, the Chairman should be referring Cohen to the Justice Department for lying to our Committee.

Chairman Cummings also misrepresented Mazars’s response letter, dated March 27, 2019.⁷ Although the Chairman represented in his memorandum—and to the media⁸—that Mazars sought a “friendly” subpoena, they did not. In actuality, attorneys for Mazars informed the Chairman that the “Mazars is unable to produce documents in response to the [r]equest” due to a number of federal and state laws.⁹ Mazars never indicated that it sought a subpoena for this material.

II. Chairman Cummings’s Partisan Request for Sensitive, Personal Financial Information Violates His Promises to the Committee.

Twelve days ago, on April 3, 2019, Chairman Cummings, in a free-wheeling press availability, announced to the media that he was preparing a subpoena to Mazars for this sensitive, personal information about President Trump’s finances.¹⁰ Instead of noticing a business meeting during the week of April 8 for the Committee to consider and debate this subpoena—when there was room in the Committee’s calendar—he waited and waited until just after Members had left for the two-week Easter district work period to announce his intention to subpoena Mazars. This action violates the Chairman’s promise to the Committee at our organization meeting.

⁵ Memorandum from Elijah E. Cummings, *supra* note 1; Letter from Elijah E. Cummings, *supra* note 3.

⁶ Tweet by Manu Raju, CNN (Apr. 9, 2019, 11:58 a.m.), <https://twitter.com/mkraju/status/1115690562303094784?s=11>.

⁷ Letter from Jerry D. Bernstein, BlankRome, to Elijah E. Cummings, Chairman, H. Comm. on Oversight & Reform (Mar. 27, 2019).

⁸ Chairman Cummings told the media: “The accounting firm told us that they will respond and they just want a subpoena so we...we’ve got to figure out how to accommodate them...but apparently it would mean a friendly subpoena, I assume.” Rachael Bade, *Trump’s accounting firm to respond to request for documents if subpoenaed, says Democratic lawmaker*, WASH. POST (Apr. 3, 2019).

⁹ *Id.*

¹⁰ Bade, *supra* note 8.

At the organizing meeting of the Committee on January 27, 2019, Chairman Cummings promised:

If the ranking member objects to the issuance of a subpoena in writing, my preference is to bring the subpoena before the committee for a vote when that is feasible. Members deserve the opportunity to go on the record for some of the most important work they will do, and the public deserves the opportunity to see them do that work in the open. The chair prefers that when the ranking member objects the committee will have an open proceeding and a vote when feasible.¹¹

In the Chairman's memorandum, he alleged that he adhered to this agreement because Congress is in recess.¹² However, Chairman Cummings received Mazars's letter on March 27 and he boasted to the press on April 3 that he would issue a subpoena. Between March 27 and today, the House was in session for nine legislative days, during which Chairman Cummings could have scheduled a business meeting or could have contacted me directly or via staff to discuss the matter. Instead, the Chairman did not say a word. The staff said not one word. Chairman Cummings purposefully waited for the Members to return to their districts to avoid public transparency and accountability surrounding his unilateral partisan actions.

The Chairman's maneuvering here is especially concerning against the backdrop of his public statements. For example, during the Committee's hearing on March 14, 2019, Chairman Cummings said: "I'm a man of my word, and I will continue to be that."¹³ While I respect the Chairman personally, his actions here in willfully avoiding a public debate to consider this subpoena to Mazars violate his promises to the Committee.

III. Chairman Cummings Has Already Selectively Released Sensitive Committee Information to Attack the President for Political Gain.

I have concerns that if Chairman Cummings obtains highly sensitive, personal information about the President's finances, he will selectively release the information publicly in a misleading fashion to create a false narrative for partisan political gain. Chairman Cummings has done it before. We deserve better.

On April 1, 2019, in a sensational press release and memorandum, Chairman Cummings released cherry-picked excerpts of highly sensitive information obtained in a closed-door transcribed interview that he scheduled for 8:30 a.m. on a Saturday with no notice to Members.¹⁴ Chairman Cummings released this information publicly without consulting Republican Members

¹¹ *Organizing Meeting, H. Comm. on Oversight & Reform*, 116th Cong. 33 (2019).

¹² Memorandum from Elijah E. Cummings, *supra* note 1.

¹³ *Hearing with Secretary of Commerce Before the H. Comm. on Oversight & Reform*, 116th Cong. 180 (2019).

¹⁴ Memorandum from Democratic Staff to Members of the H. Comm. on Oversight & Reform, *Summary of Interview with White House Whistleblower on Security Clearances* (Apr. 1, 2019).

or having a vote of the Committee. He released this information to generate headlines in his partisan investigation of the security clearance information relating to President Trump's senior advisers.

In addition, in a letter dated February 15, 2019, Chairman Cummings wrongly accused two respected lawyers of making false statements without ever speaking to them and by relying only on cherry-picked passages of incomplete, one-sided, handwritten notes of a conference call between lawyers for the President and officials at the Office of Government Ethics.¹⁵ Chairman Cummings failed to include exculpatory information produced in the document production relating to the same teleconference. The Chairman then released this information publicly to embarrass these lawyers solely based on their representation of President Trump.

IV. Chairman Cummings's Partisan Request for Sensitive, Personal Financial Information Is Not a Responsible Use of the Committee's Oversight Power.

The 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."¹⁶ Yet this is precisely what Chairman Cummings intends to do with his subpoena to Mazars for sensitive, personal information about President Trump's finances.

Chairman Cummings has cited no specific law or legislative proposal for which he requires eight years of sensitive, personal financial information about President Trump. Chairman Cummings has offered no detailed explanation for how this sensitive, personal financial information is necessary to examine any of the potential conduct that he attributes to the President in his memorandum. Quite simply, Chairman Cummings seems to be seeking this sensitive, personal financial information in a pursuit to satisfy his preconceived and unsupported conclusions.

The Chairman's raw partisanship and political acts run the risk of devaluing and delegitimizing the Committee's ability to receive unbiased documentary and testimonial information with which to perform our oversight duties.

V. Chairman Cummings's Unprecedented Investigations Attacking the President Reflect Poorly on this Committee.

Finally, Chairman Cummings mischaracterized the letter that Representative Mark Meadows and I sent to Mazars in response to the Chairman's letter. Contrary to the Chairman's assertion, Mr. Meadows and I never urged the company not to comply with the Chairman's

¹⁵ Letter from Elijah E. Cummings, Chairman, H. Comm. on Oversight & Reform, to Pat Cipollone, Counsel to the President, The White House (Feb. 15, 2019) (on file with the Committee); *see also* Office of Gov't Ethics, Jan. 31, 2019 Document Production at 0037-0038.

¹⁶ Watkins v. United States, 354 U.S. 178, 187 (1957) ("There is no general authority to expose the private affairs of individuals without justification in terms of the functions of the Congress Nor is the Congress a law enforcement or trial agency No inquiry is an end in itself; it must be related to, and in furtherance of, a legitimate task of the Congress.").

request. The Chairman's assertion is merely a straw-man argument intended to deflect from his unprecedented attacks on the President.¹⁷

In our letter, Mr. Meadows and I informed Mazars about the concerns we had—and continue to have—with respect to the Chairman's unilateral, unchecked partisan inquiry. We have serious concerns with the nature and conduct of Chairman Cummings's investigations, as do many other Members. We will continue to inform the Committee's respondents of these concerns as we see appropriate.

What is unprecedented here is the extent to which Chairman Cummings and House Democrats have gone to attack the President for political gain. Chairman Cummings's subpoena for President Trump's sensitive, personal financial information goes hand-in-glove with Chairman Neal's request for President Trump's personal tax returns and with Chairman Nadler's expansive investigation into 81 entities with personal or business relationships with the President. These are all part of a coordinated and carefully managed campaign to use congressional oversight for partisan advantage—in fact, I recently became aware that Chairman Cummings has executed a secret Memorandum of Understanding with Chairwoman Maxine Waters to attack the President.

The Democrat obsession with the President and his family is gravely dangerous and counterproductive to the work of our Committee. The American people can now see that Democrats' pursuit of the truth is clouded by their obsession with attacking the President and the First Family. None of our actions would be necessary if not for Chairman Cummings's decision to pursue reckless, partisan investigations designed to attack the President and his family.

Chairman Cummings's unilateral subpoena of Mazars does nothing to make life better for our constituents or to improve the economy, efficiency, and effectiveness of the federal government. It is nothing but an exercise in raw partisan politics. This is not the fair and responsible oversight that Chairman Cummings promised.

###

¹⁷ Similarly, Chairman Cummings's absurd comparison of subpoenaing eight years of personal financial information about the President to asking a witness about his salary demonstrates how desperate the Chairman is to legitimize his unprecedented conduct.

Exhibit E

Congress of the United States**House of Representatives**

COMMITTEE ON OVERSIGHT AND REFORM

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

MAJORITY (202) 225-5051

MINORITY (202) 225-5074

<http://oversight.house.gov>

April 17, 2019

The Honorable Elijah E. Cummings
 Chairman
 Committee on Oversight and Reform
 2157 Rayburn House Office Building
 Washington, DC 20515

Dear Mr. Chairman:

I am in receipt of the subpoena served to Mazars USA LLP (Mazars), dated April 15, 2019.¹ You issued this subpoena over my objection without having a debate or vote of the Committee, as you promised.² This is not fair and objective congressional oversight. Your subpoena is an act of raw partisan politics meant only to further your obsession with attacking the President of the United States.

Although I now believe—following your actions on Monday—that you do not value any feedback from your Republican colleagues, allow me to respond to a few points from the memorandum you issued in defense of your decision to subpoena Mazars.

- **You did not adhere to the bipartisan agreement regarding Committee subpoenas.³**

In your memorandum, you incorrectly asserted that you “fully complie[d] with all terms of the bipartisan agreement” because the Easter work period made it impossible to convene a business meeting.⁴ The only reason, however, that the work period posed any challenge in convening a business meeting was because you waited until the work period to move forward with the subpoena. If you had noticed a business meeting on April 3—the same day that you told the media that would subpoena Mazars⁵—there would have been plenty of opportunity for Members to debate and vote on the proposed subpoena. Instead, by notifying Members at 3:46 p.m. on Friday and requesting feedback by 11:00

¹ Document Production Subpoena to Mazars USA LLP (Apr. 15, 2019).

² See Memorandum for Members of the H. Comm. on Oversight and Reform, Re: Chairman Cummings’s Unprecedented Subpoena of Mazars USA LLP (Apr. 15, 2019).

³ “If the ranking member objects to the issuance of a subpoena in writing, my preference is to bring the subpoena before the committee for a vote when that is feasible. Members deserve the opportunity to go on the record for some of the most important work they will do, and the public deserves the opportunity to see them do that work in the open. The chair prefers that when the ranking member objects the committee will have an open proceeding and a vote when feasible.” *Organizing Meeting, H. Comm. on Oversight & Reform*, 116th Cong. 33 (2019).

⁴ Memorandum from Elijah E. Cummings, Chairman, H. Comm. on Oversight & Reform, to Members of the Committee on Oversight & Reform, (Apr. 15, 2019) (on file with Committee).

⁵ Rachael Bade, *Trump's accounting firm to respond to request for documents if subpoenaed, says Democratic lawmaker*, WASH. POST (Apr. 3, 2019, 4:43 PM) https://www.washingtonpost.com/politics/trumps-accounting-firm-to-respond-to-request-for-documents-if-subpoenaed-says-democratic-lawmaker/2019/04/03/94ff2ba2-564d-11e9-a047-748657a0a9d1_story.html?utm_term=.54e92108e3a3.

The Honorable Elijah E. Cummings

April 17, 2019

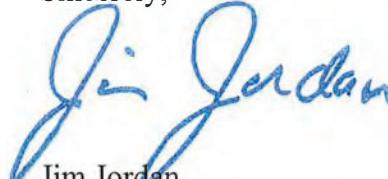
Page 2

a.m. on Monday, you allowed Members only a little over three business hours to consider your unprecedented subpoena. Of course, you also could have waited until Members returned from the work period to convene a business meeting and debate and vote on the subpoena.

- **You have not been transparent about Members' views on the subpoena.** In your memorandum, you named only two Members who wrote to you about your proposed subpoena: Rep. Armstrong and me. Both Rep. Armstrong and I opposed your subpoena to Mazars. It would appear, then, from your memorandum that you issued this subpoena over the objections of the only two Members you named.
- **You did not dispute the fact that your subpoena to Mazars is part of a coordinated and carefully managed campaign to use congressional oversight for political gain.** Although your memorandum baselessly disputed several facts that I made in a memorandum to Members, you accepted this fact. In addition, on the same day you issued your unilateral subpoena to Mazars, Chairwoman Waters and Chairman Schiff issued subpoenas to other financial institutions concerning President Trump's finances. Your secret memoranda of understanding with other committees strongly suggests that the timing of your issuance of the Mazars subpoena is not a coincidence.⁶ You also did not dispute that you misrepresented the Mazars subpoena as a "friendly" subpoena in your comments to the media.
- **You still have not articulated how the sensitive, personal financial information you seek will advance a legitimate legislative purpose.** Instead, you offered conclusory statements about the Committee's jurisdiction to justify examining purely speculative conduct you attribute to the President.

The Supreme Court of the United States has explained that a congressional investigation cannot seek to "expose for the sake of exposure."⁷ The Court explained that "the public is, of course, entitled to be informed concerning workings of its government. It cannot be inflated into a general power to expose where the predominant result can only be an invasion of the private right of an individual."⁸ I am disappointed that your obsession with attacking President Trump for political gain has led you to do precisely what the Supreme Court cautioned against. I sincerely hope that you will reconsider your approach and cease this abject partisanship.

Sincerely,



Jim Jordan
Ranking Member

⁶ See letter from Jim Jordan, Ranking Member, H. Comm. on Oversight & Reform, to Elijah E. Cummings, Chairman, H. Comm. on Oversight & Reform (Apr. 15, 2019).

⁷ Id.

⁸ Id.

Exhibit F

JA120



Subscribe to Axios Sports: the "sports page" for the 21st century



Mike Allen Nov 12, 2018

Democrats load "subpoena cannon" with 85+ Trump targets



Illustration: Lazaro Gamio/Axios

House Democrats plan to probe every aspect of President Trump's life and work, from family business dealings, the Space Force and his tax returns to possible "leverage" by Russia, top Democrats tell us.

What they're saying: One senior Democratic source said the new majority, which takes power in January, is preparing a "subpoena cannon," like an arena T-shirt cannon.

JA121



(See the list.)

Incoming House Intelligence chairman Adam Schiff (D-Calif.) told "Axios on HBO" that he expects Trump to resist the committees' requests, demands and subpoenas — likely pushing fights over documents and testimony as far as the Supreme Court.

- **Why it matters:** The fight will test the power of the presidency, Congress and the Supreme Court.

Top Democrats, who had largely avoided the subject during the campaign, now tell us they plan to almost immediately begin exploring possible grounds for impeachment. A public report by Robert Mueller would ignite the kindling.

- **Tom Steyer**, the liberal activist who spent more than \$100 million during the campaign to build support for impeachment, said establishment leaders who are trying to postpone talk of impeachment are "the outliers": "80% of registered Democrats think ... we're right."

Two of the most powerful incoming chairs tell "Axios on HBO" that they are plotting action far beyond Russian interference in the 2016 elections.

1) Schiff, the top Democrat on the Intelligence Committee, told us he wants to help special counsel Robert Mueller and plans to release — with some redactions of classified material — transcripts of dozens of interviews the committee conducted during its own Russia probe.

- **Schiff says** these transcripts contain numerous possible contradictions with other testimony and facts that have come to light, meaning possible legal jeopardy for the witnesses, who have included White House officials and alumni.
- **"I want to make sure** that Bob Mueller has the advantage of the evidence that we've been able to gather," Schiff said. "But equally important: that Bob Mueller is in a position to determine whether people knowingly committed perjury before our committee."
- **Asked if there are** real questions about contradictions between the testimony of Roger Stone, a close ally of the Trump campaign, and emails that have surfaced since then, Schiff said: "That is certainly the case."



- See a clip.

2) Incoming House Appropriations Chair Nita Lowey of New York, a close ally of House Democratic Leader Nancy Pelosi, said "yes" to each of a long list of possible investigative targets, including the Space Force, hurricane relief in Puerto Rico, White House security clearances, White House use of personal email and more.

- "**We have our boxing gloves on,**" Lowey said. "I'm ready. And so is Nancy."
- See the clip of her answers.

We reminded Lowey and Schiff of a Jonathan Swan scoop from August, "Republicans secretly study their coming hell," reporting that House Republicans had built a spreadsheet of potential investigation targets, based on Democrats' public complaints and statements.

- **Both Lowey and Schiff** made it clear that the GOP list is just a starting point.
- **So look for probes** of James Comey's firing; Attorney General Jeff Sessions' ouster; the Muslim travel ban; family separation policy at the border; discussions of classified information at Mar-a-Lago; administration dealings with North Korea and Saudi Arabia; and so much more.

Trump is already signaling confrontation, saying at his post-election news conference that if Dems investigate him, the result will be "a warlike posture."

- **Asked if he'll investigate** the Democrats back, he replied: "Oh, yeah. Better than them."

Be smart: For 225+ years, federal courts have upheld the Constitution's mandate of Congress as an equal branch of government, providing checks and balances on the executive. So House Democrats have a high hand as they assume power.

Go deeper:

- Democratic hit list: At least 85 Trump investigation targets
- Republicans secretly study their coming hell
- Democrats to probe Trump for targeting CNN, Washington Post

JA123

Exhibit G

JA124

Vox

Christina Animashaun/Vox

The 10 new Democratic House committee chairs who are about to make Trump's life hell

2019 will be a year of investigations.

By Andrew Prokop, Ella Nilsen, Emily Stewart, Umair Irfan, Tara Golshan, Dylan Scott, Alex Ward, and Dara Lind | Jan 3, 2019, 9:20am EST

The Trump administration's free ride from Congress is over.

New Democratic House committee chairs are set to launch subpoena-powered investigations into the president's finances, Russian interference, and administration ethics scandals. After two years of low-energy Republican oversight, the Trump administration's policies and its basic competence in running the government will be under serious scrutiny for the first time.

Republicans have been supremely worried about this prospect for some time. "Winter is coming," one Trump ally **told the Washington Post** before the election. If the Democrats won the House, the source continued, "The White House will be under siege."

JA125

The siege is about to begin. The big game changer is that the majorities in congressional committees have the ability to approve subpoenas: to compel document production or in-person testimony, from government agencies and officials as well as private citizens.

The committees themselves can't bring criminal charges as a result of the investigations, but they can refer the conduct they find to the Justice Department. Just as consequentially, scandals they unearth could have political consequences in the media and at the ballot box.

Each committee will be led by a chair, and each chair will have some leeway to decide where to expend their committee's investigative resources. These are the key players who will do much to shape President Trump's 2019. So here's what we know about some of the most important incoming chairs, and their investigative ambitions.

Intelligence Committee — Adam Schiff

by Andrew Prokop

Rep. Adam Schiff (D-CA) has already become well-known as Devin Nunes's rival and foil atop the House Permanent Select Committee on Intelligence. But once he becomes chair, Schiff will be one of the most important figures setting the Democratic House's investigatory agenda on Russia as well as other intelligence-related topics.



Rep. Adam Schiff (D-CA) stands for a TV interview at the US Capitol on November 29, 2018. | Alex Wong/Getty Images

Schiff plans to use his subpoena power to more intensely probe Trump's ties to Russia, since Democrats think their GOP predecessors' investigation of the subject was incurious, and concluded far too quickly. And one particular interest of his is in following the money.

"One of the issues that has continued to concern me [is] the persistent allegations that the Trumps, when they couldn't get money from US banks, were laundering Russian money," Schiff **recently said on the Lawfare Podcast**. "If that is true, that would be a more powerful compromise than any salacious videotape or any aborted Trump Tower deal." To that end, House Intelligence Committee Democrats are trying to hire money laundering and forensic accounting experts, the **Daily Beast's Betsy Woodruff and Spencer Ackerman reported**.

That's not the only money trail Schiff is interested in. The California Democrat has also said that he plans to investigate Trump's financial ties to Saudi Arabia. "The president is not being honest with the country about the murder of Jamal Khashoggi," **Schiff said on CNN**. "Is his personal financial interest driving U.S. policy in the Gulf?" he asked. "Are there financial inducements that the president has not to want to cross the Saudis?"

Schiff also thinks the administration's North Korea policy is ripe for some oversight, and has questioned Trump's rosy assessment of Kim Jong Un's intentions. "The president keeps telling us that we can sleep well at night because North Korea is on the path to denuclearization, but I see no evidence of that," he recently **told Vox's Alex Ward**.

Oversight Committee — Elijah Cummings

by *Ella Nilsen*

The Committee on Oversight and Government Reform is the House's main watchdog for the executive branch. But for the past two years, the Republicans running it have spent little time on oversight of Trump's appointees.

With incoming chair Rep. Elijah Cummings (D-MD), that's about to change.



House Oversight Committee ranking member Rep. Elijah Cummings (D-MD) speaks to reporters about President Donald Trump's former National Security Adviser Gen. Michael Flynn on April 25, 2017. | Win McNamee/Getty Images

Cummings has a mountain of potential subjects to investigate in the Trump administration, from Trump and his family's own business entanglements with foreign governments to allegations of corruption and a revolving door in his administration.

"They'll have to make choices," former Democratic Rep. Henry Waxman, who previously chaired the committee, told me. "They have the ability to investigate anything."

Over the past few years in the minority, Cummings and his staff have filed well over 50 subpoena requests for the Trump administration to Republicans — but because, they were in the minority, Democrats remained powerless to issue these subpoenas themselves. These involved investigating the administration's response to Hurricane Maria, locating migrant children separated from their families by the Trump administration's policies, investigating the ethical issues of Trump's former Environmental Protection Agency chief Scott Pruitt, and more.

"We've got to address this issue of exposing President Trump and what he has done, and we've got to face the truth," Cummings told me recently. "The president is a guy who calls truth lies and lies truth. But at some point, he's also creating policy, and that's affecting people's day-to-day life."

Judiciary Committee — Jerry Nadler

by Ella Nilsen and Dara Lind

JA128

If President Trump were to be impeached, the process would start in the House Judiciary Committee — which will be chaired by Rep. Jerry Nadler (D-NY).



House Judiciary Committee ranking member Rep. Jerry Nadler (D-NY) arrives for a Democratic caucus meeting at the US Capitol on November 14, 2018. | Chip Somodevilla/Getty Images

But Nadler is in no rush to get to that point. “It’s too early,” he told the **New York Times Magazine’s Jason Zengerle** in November. He added that he would only begin the process if he believes an “appreciable fraction of the Trump voters” could become convinced. “You don’t want to tear the country apart.”

For now, Nadler plans to investigate what’s been going on at the Justice Department since Attorney General Jeff Sessions’s sudden firing and replacement with **Matthew Whitaker**. And he’s indicated he may reopen questions related to the sexual assault allegations against Supreme Court Justice Brett Kavanaugh.

His committee also intends to take the lead on oversight of Trump’s immigration policy. Oversight of the Department of Homeland Security is **fragmented**, but the Judiciary Committee has pretty broad jurisdiction over Trump’s enforcement of immigration law. Given how aggressive the Trump administration has been in changing executive branch immigration policy, and how opaque or slapdash some of those moves have been, there is more than enough for Nadler to take up.

Democrats' **questioning of Homeland Security Secretary Kirstjen Nielsen** in December offered some hints about where Nadler and his committee would like to go, including the widespread **family separations** of late spring 2018 and the treatment of unaccompanied children in the custody of Health and Human Services.

Nadler's Judiciary Committee will also likely lend some investigative heft to Democratic appropriators' efforts to cut funding for Immigration and Customs Enforcement arrests and detention. Immigration detention has exploded over the past two years despite **Republican appropriators' efforts** to limit spending on it — so Democrats will likely ask questions about who is being detained, for how long, and why.

Ways and Means Committee — Richard Neal

by Tara Golshan

Rep. Richard Neal (D-MA) hopes to get his hands on President Trump's tax returns. He's just not yet sure how or when, exactly, he's going to do it. "Our staff is working on it," Neal said in December.



Rep. Richard Neal (D-MA), Rep.-elect Lori Trahan (D-MA), and Rep. Jan Schakowsky (D-IL) arrive for the House Democrats' leadership elections in Longworth Building on November 29, 2018. | Tom Williams/CQ Roll Call

The Ways and Means Committee is one of the most powerful in the House, with jurisdiction over broad swaths of tax and health care. And Neal intends to scrutinize Trump

administration policies about the Affordable Care Act, protections for preexisting conditions, and prescription drug pricing.

But it's the long-running mystery of what's in Trump's long-concealed tax returns — which he **promised** to release during the campaign and then didn't — that Neal is asked about most often.

"One of the things that I'm going to try to convince him of is voluntarily relinquishing the documents," Neal **told the Amherst Wire**. "We're going to try, in this case, to convince him to do it, but at the same time prepare the legal case for asking for the documents."

That legal case may hinge on **an obscure law from 1924** that says the Ways and Means Committee chair can request to the Treasury Department to review any individual's tax returns in closed session.

NBC News reported that "committee sources could find no evidence" that this law "had ever been used" for this purpose — but that they're likely to try it anyway. But a spokesperson for Neal **told Politico** that they might not do so right away, because Neal "wants to lay out a case about why presidents should be disclosing their tax returns before he formally forces him to do it."

And even if and when the request is made, don't expect Trump's tax returns to be handed over right away — Neal has said he expects a court battle over the matter, and there are further questions about how exactly he'd be able to make information in the tax returns public.

Financial Services — Maxine Waters

by Emily Stewart

As chair of the House Committee on Financial Services, Rep. **Maxine Waters** (D-CA) will have an opportunity to scrutinize broad swaths of the financial industry and agencies such as the Consumer Financial Protection Bureau and the Department of Housing and Urban Development. She's also indicated she plans to target the megabank **Wells Fargo** and the credit score company Equifax.



Rep. Maxine Waters (D-CA) exits a Democratic Caucus meeting to elect new leadership on Capitol Hill on November 28, 2018. | Zach Gibson/Getty Images

But, of course, she'll also take aim at President Trump. In a **letter to colleagues** after the 2018 midterms, Waters said she intends to follow the "Trump money trail," starting with **Deutsche Bank** — one of the few banks that still lend money to Trump and also **does business** with his son-in-law Jared Kushner — and "suspicious activity reports" filed with financial crimes officials.

As ranking member of the committee, Waters sent **letters** asking about Trump's financial ties with Russia and asked then-committee chair Jeb Hensarling (R-TX) to **subpoena** information on his ties to Deutsche Bank. As committee chair, she'll have the ability to conduct investigations — and issue subpoenas — on a number of matters related to the Trump administration and Trump family's finances, including potential ties to Deutsche Bank, **Citibank**, and Russia.

Foreign Affairs Committee — Eliot Engel

by Alex Ward

Under Rep. Eliot Engel (D-NY), the Foreign Affairs Committee plans to dig into Trump's connections abroad and whether his business interests might be influencing the administration's policies.



Ranking member of the House Foreign Relations Committee Rep. Representative Eliot Engel (D-NY) in his office on Capitol Hill on November 15, 2018. | Brendan Smialowski/AFP/Getty Images

In addition to the obvious topic of Russia, the committee hopes to obtain more documents about the Trump Organization's **property in Panama**. Earlier this year, Trump's company **appealed** directly to Panama's president to stop its eviction from the building as managers. Some say that episode shows a clear conflict of interest between Trump's duty as president and his ties — since severed — to his namesake company.

But a Democratic congressional aide **listed** several other foreign policy topics the committee hopes to investigate, including:

- Greater oversight of the State Department and the US Agency for International Development (USAID). The committee is particularly interested in looking into reported "**loyalty tests,**" where officials are vetted for their loyalty to Trump.
- Updating **authorizations for the use of military force** abroad, which have remained untouched since 2002.
- Ending America's support for the **war in Yemen**, a move for which there is has been growing congressional support.

Energy and Commerce — Frank Pallone

by Dylan Scott

Rep. Frank Pallone (D-NJ) is taking over the gavel at Energy and Commerce, a committee with some of the broadest jurisdiction in Congress — and his planned oversight agenda for

2019 reflects it. The Trump administration has given Pallone and his staff plenty of openings to burrow into the scandals and controversial policy decisions of the past two years.



Rep. Frank Pallone (D-NJ) announces House Democrats' new infrastructure plan during a news conference on February 8, 2018. | Chip Somodevilla/Getty Images

For starters, there's the environment. The incoming Democratic first-term members are animated by climate change, and Pallone's committee plans to examine how the Trump administration, led by a president who denies climate change even exists, is neglecting or even exacerbating the problem.

They will in turn spend a lot of time on the Environmental Protection Agency, which has rolled back Obama-era regulations governing coal and methane while also disbanding an air pollution review panel. Democrats have been agitating for a hearing on how the EPA handles toxic chemicals, based on **worrying press reports**, and will now have the freedom to **pursue the issue**.

Health care is the other huge topic that falls under the committee's purview. Pallone's office says they plan to probe various regulations and funding cuts from the Trump administration that seem designed to undermine the Affordable Care Act. They have also already requested — and can now set — a hearing on Trump's family separations policy and how health officials are planning to reunite children who were separating from their parents at the border.

Natural Resources — Raúl Grijalva

by Umair Irfan

A few weeks after Democrats' midterm elections victory, Rep. Raúl Grijalva (D-AZ) — the incoming chair of the House Committee on Natural Resources — wrote that scandal-plagued Interior Secretary Ryan Zinke was "**unfit to serve**" and should step down.



Rep. Raúl Grijalva (D-AZ) speaks during a news conference regarding the separation of immigrant children at the US Capitol on July 10, 2018. | Alex Edelman/Getty Images

At first, Zinke **responded on Twitter** with defiance and innuendo about Grijalva's purported drinking habits. But just two weeks later, Grijalva got his way: **President Trump announced** that Zinke was out.

Grijalva plans to **investigate** both policy and ethics matters from Zinke's controversial tenure. On Zinke's watch, the Interior Department proposed the largest rollback of **federal land protections** in US history and opened nearly all US coastal waters to offshore drilling. Democrats say they want to investigate how the fossil fuel industry influenced these policies, as well as whether the agency properly considered the environmental implications of its decisions.

The committee also plans to scrutinize Zinke's temporary replacement, acting Interior Secretary **David Bernhardt**, a former fossil fuel lobbyist. "His years of lobbying on behalf of

clients who stand to profit from Interior policy decisions are cause for serious concern,” Grijalva said in a statement to **Earther**.

Veterans’ Affairs — Mark Takano

by Emily Stewart

The Department of Veterans’ Affairs has seen tumultuous times under the Trump administration — the president’s first VA secretary was **forced out**, his **replacement nominee** withdrew amid scandal, and current VA Secretary Robert Wilkie **has faced controversies of his own** at the department.



Rep. Mark Takano (D-CA) leaves the Capitol after a series of votes on repeal and replace of Obamacare on May 4, 2017. | Bill Clark/CQ Roll Call Inc.

As incoming head of the House Committee on Veterans’ Affairs, Rep. Mark Takano (D-CA) will have the opportunity to dig into what’s been going on.

One of the potential items on his agenda for a probe will likely be the **ProPublica** report in August that found that three members of Trump’s Mar-a-Lago resort — Marvel Entertainment chair Ike Perlmutter, Palm Beach doctor Bruce Moskowitz, and lawyer Marc Sherman — were essentially calling the shots at the VA, reviewing policy and personnel decisions from the get-go. Congressional Democrats requested emails and communications between the three and VA officials, but Secretary Wilkie refused to provide them, **citing ongoing litigation**.

Takano also told **the Hill** that he will also focus on ensuring the VA doesn't "slow walk" filling thousands of vacancies in its ranks. And, Takano is likely to continue to press the VA for answers on **delayed housing benefits payments to student veterans** under the Forever GI Bill. In November, he led a group of Democratic lawmakers in sending a **letter** to Wilkie asking for answers on the topic.

Science, Space, and Technology — Eddie Bernice Johnson

by Umair Irfan

In December at an **American Geophysical Union** meeting, a conference of top physicists, geologists, and atmospheric scientists, Rep. Eddie Bernice Johnson (D-TX) told the gathering that climate change would be front and center for the **House Committee on Science, Space, and Technology**, which she will chair.



Gen. William Shelton, head of the US Air Force Space Command, greets House Science, Space, and Technology Committee ranking member Rep. Eddie Bernice Johnson (D-TX) before a hearing on Capitol Hill on March 19, 2013. | Chip Somodevilla/Getty Images

"As we look forward to next year, with a change in leadership on the Science Committee, you can expect to see a renewed focus on climate change," Johnson said.

It will be a stark shift from the tenure of her predecessor, retiring Rep. Lamar Smith (R-TX), who has denied that humans are **changing the climate** and spent years subpoenaing climate scientists for research documents, emails, and correspondence. Critics, including Johnson, described the subpoenas as "**harassment**".

Come January, Johnson said the committee will instead focus more on how federal agencies under the Trump administration are handling climate science and research matters — scrutinizing, for instance, the **EPA**'s ousting of science advisers and its proposals to limit the kinds of research that can be used to make regulations. ■

FUTURE PERFECT

Trump wants to change how poverty is calculated — to make fewer people eligible for benefits

CULTURE

Game of Thrones season 8: How the Golden Company could make or break Cersei

HEALTH CARE

The controversial abortion bills sweeping the country this week, explained

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Exhibit H

POLITICO

POLITICO



House Judiciary chairman Jerry Nadler has questioned President Donald Trump's appointment of Matthew Whitaker as acting Attorney General. | M. Scott Mahaskey/POLITICO

CONGRESS

House Democrats prepare fusillade of Trump investigations

Trump Hotel, taxes, Cabinet members are all targets.

By ADAM CANCRYN | 01/07/2019 05:07 AM EST

Democrats want to investigate the Trump Hotel deal and President Donald Trump's taxes. They want to haul up conflicted Cabinet officials and dig into controversial changes to the census and food stamps. They want to put Education Secretary Betsy DeVos under oath and investigate child detentions at the border.

The threat of subpoenas, investigations and oversight hearings will dominate the new House Democratic majority's agenda, targeting the White House's most controversial policies and personnel, spanning immigration, the environment, trade and of course, the biggest question of all: Russian collusion.

"Over the last two years President Trump set the tone from the top in his administration that behaving ethically and complying with the law is optional," House Oversight Chairman Elijah Cummings said. "We're better than that."

JA140

But for House Democrats in control for the first time in nearly a decade, it's also a role full of pitfalls. Trump has already tried to brand the prospect of congressional oversight as nothing more than "harassment," and Democrats will also have to show they can legislate, govern and investigate at the same time in the House.

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"I joked for a while — but it's not funny anymore — I said we're going to have to build an air traffic control tower to keep track of all the subpoenas flying from here to the White House," said Rep. John Yarmuth (D-Ky.), chairman of the House Budget Committee. "So yeah, it could be brutal."

Two days into the new Congress, the atmosphere is already poisoned, with Democrats going off message calling for impeachment and Trump threatening to shut down the government for months.

But over the coming year, there will be more action in House committees than there was in the first two years of the Trump administration.

Here are some of the biggest targets for House Democrats:

Mueller and the Justice Department

Democrats stress they'll need to tread carefully when it comes to Russia-related investigations, for fear of interfering with special counsel Robert Mueller's probe. But that's not likely to stop the party from taking a deep look at the Justice Department and acting Attorney General Matt Whitaker — who assumed oversight of Mueller's activities after Trump forced out Jeff Sessions.

Critics have warned that Whitaker's appointment could be aimed at interfering with the investigation, with Judiciary Chairman Jerry Nadler (D-N.Y.) questioning at one point whether his appointment without Senate confirmation was even legal.

Scandal-ridden Cabinet officials

Cummings has singled out two former Trump officials who will be in his crosshairs early on: former Interior Secretary Ryan Zinke and former EPA Administrator Scott Pruitt.

"We're seeing gross abuses from agency heads," Cummings said about them soon after Democrats took charge of the chamber.



CONGRESS

House Democrats unveil bill to obtain Trump's tax returns, put checks on White House

By MAGGIE SEVERNS

Zinke is already under pressure from the Interior Department's internal watchdog, and soon he'll be hauled up to the Hill to account for his role in a range of ethical quandaries. Among them: a land deal with the then-chairman of Halliburton and whether Zinke's decision to block a tribal casino despite recommendations from career staff was inappropriately driven by political considerations — both issues that were first reported by POLITICO.

The DOJ is reportedly also looking into allegations that Zinke committed a crime by lying to IG investigators, which Zinke denies. One of his first stops could be in front of the House Natural Resources Committee, where Chairman Raúl Grijalva (D-Ariz.) said he wants a hearing even after Zinke resigned from the Trump administration.

EPA, meanwhile, may face subpoenas for Pruitt-related records it failed to produce for the previous investigation run by then-Chairman Trey Gowdy. The agency's inspector general is also still looking into a range of Pruitt's activities, including his travel, use of special hiring authorities to bring political officials on board and granting of raises to close aides.

But the first Cabinet official Cummings wants to talk to is Commerce Secretary Wilbur Ross. His committee will press Ross on allegations he misled Congress about a decision to add a question about citizenship to the 2020 census. Ross also has been dogged by ethical questions and reporting that exposed numerous conflicts of interests involving his personal financial interests.

And another Cabinet member, Betsy DeVos

As many as five House committees could take on DeVos over her rollback of for-profit college regulations, stalled student loan forgiveness processing and a rewrite of campus sexual assault policies.

Veterans Affairs Chairman Mark Takano (D-Calif.) is expected to scrutinize for-profit college issues, where DeVos has scaled back Obama-era rules aimed at curbing abuses for institutions that enroll tens of thousands of veterans each year.

Rep. Rosa DeLauro (D-Conn.), chairwoman of the appropriations subcommittee overseeing education funding, is also a top critic of the Education Department over DeVos' record on student debt issues.

Financial Services Chairwoman Maxine Waters (D-Calif.) has accused DeVos of a “full-on attack on civil rights protections for students – particularly students of color, students with disabilities, transgender students, and survivors of sexual assault.” She’s also criticized the Trump administration’s moves to ease regulations on for-profit colleges, while Cummings has similarly looked at the collapse of a for-profit college chain.

And this past year, Cummings and Education and Labor Chairman Bobby Scott (D-Va.) expressed concern over DeVos’ treatment of the union that represents her agency’s employees, and pledged to scrutinize civil rights concerns tied to K-12 state plans.

Trump's taxes

Democrats are eager to get their hands on Trump’s tax returns, a task that would fall to the House Ways and Means Committee. But newly minted Chairman Richard Neal (D-Mass.) doesn’t plan to rush into anything. Neal wants to first build a public case that presidents should voluntarily release their returns, his spokesperson told POLITICO.

That approach won’t sit well with other Democratic lawmakers and liberal activists, who have been clamoring to get a look at Trump’s tax filings since the 2016 presidential campaign. Just two days after Democrats won the House in the midterm elections, more than 50 groups, including unions and government transparency advocacy groups, signed on to a full-page ad in The New York Times urging Democrats to make Trump’s tax returns a Day One priority.



POLITICS

How Will the Shutdown End?

By POLITICO MAGAZINE

Whenever Democrats make their move, it is likely to spark a legal battle with Trump, who has guarded the secrecy of his tax practices.

Neal is also planning to use his oversight power to delve into the massive tax overhaul Republicans pushed through Congress in 2017, especially provisions that Democrats believe advantaged the wealthy and punished blue state taxpayers.

The 'zero tolerance' border policy

The deaths of two migrant children held in detention — Jakelin Caal, 7, and Felipe Gomez Alonzo, 8 — have heightened Democrats’ urgency to investigate Trump’s immigration decisions.

Three committees have ordered U.S. Customs and Border Protection to preserve evidence related to their deaths, and yet another is prepping a hearing later this month on the family separations that resulted from the Department of Justice’s “zero tolerance” policy. That Energy and Commerce Committee session could renew the focus on the role the administration’s health department is playing in housing and caring for migrants detained at the border.

DeLauro and Scott will play big roles in this space too, with DeLauro focusing on wage theft and the Labor Department’s PAID program — a safe harbor created by the Trump administration for companies that may owe workers back pay. Scott told POLITICO in November he may hold hearings to investigate the limiting of businesses classified as “joint employers,” jointly liable for labor violations committed by their franchisees or contractors.

Obamacare ‘sabotage’



LAW AND ORDER

Democrats Want to Investigate Trump. Here’s Why They Should Be Careful.

By AZIZ HUQ and TOM GINSBURG

Health care is likely to be an overriding focus for Democrats early on, after rising voter support for Obamacare helped catapult them into the House majority.

Speaker Nancy Pelosi (D-Calif.) has vowed to make protecting Americans with pre-existing conditions a top priority — a mission that gained even more prominence after a Texas court sided with a GOP-led lawsuit in ruling the entire health law should be thrown out.

Democrats are planning to dig into the Justice Department's unusual decision not to defend Obamacare against that suit, as well as press Trump health officials over their roles in the legal battle and various other policy actions they suspect have depressed Obamacare enrollment and threatened the law's stability.

Controversial regulatory overhauls

Health care-focused Democrats are targeting Trump's regulatory reforms, too, planning to go after policies freeing red states to tie employment to health benefits for the poor and creating skimpy alternatives to Obamacare coverage. Energy and Commerce Chairman Frank Pallone (D-N.J.) is likely to lead the inquiry into those moves, arguing that they're motivated by a desire to undermine the 2010 health law.

House Agriculture Democrats led by Collin Peterson could review a proposed rule that would more strictly enforce existing work requirements for the Supplemental Nutrition Assistance Program, formerly known as food stamps. The proposal, which Democrats oppose, would drop more than 750,000 people from the program over three years.

Rules Chairman Jim McGovern (D-Mass.), a leading food stamps defender on Capitol Hill, also promised he'd give the administration "one hell of a fight" if it proceeds with the proposed rule.

Agency conduct

Homeland Security Chairman Bennie Thompson told POLITICO he wants to hear from Secretary Kirstjen Nielsen about her agency's operations and who is making policy decisions. He's also identified staffing issues at the Federal Emergency Management Agency, which is under scrutiny over its response to Hurricane Maria in Puerto Rico.



HEALTH CARE

Democrats won the House on Obamacare. Here's how they plan to defend it.

By ADAM CANCRYN and ALICE MIRANDA OLLSTEIN

The Pentagon is in for some tough questions as well about its budget and big-ticket programs from Rep. Adam Smith — a longtime critic of Trump's military buildup. Democrats have blasted the lengthy list of far-flung U.S. military engagements aimed at fighting global terrorism, including U.S. involvement in Africa and Yemen.

"We need an overall strategy that better reflects the budget and not just this notion [that] somehow the more money we spend at the Pentagon, the safer we are," Smith told POLITICO.

His Armed Services Committee might also probe Trump's decision to deploy active-duty troops to the U.S.-Mexico border and ban on transgender people from serving in the military. Recent administration proposals to withdraw U.S. forces from Syria and shrink the military footprint in Afghanistan — and their rationale — could also come under close scrutiny from Democrats and Republicans alike.

Agriculture Secretary Sonny Perdue, meanwhile, has caught Democrats' eye with his efforts to move two USDA agencies out of the Washington area.

Friendly fire over tariffs

Trump's trade agenda could face pushback in both congressional chambers and on both sides of the aisle. Senate Finance Chairman Chuck Grassley (R-Iowa) has promised to revive legislation that would challenge Trump's authority to impose tariffs for national security reasons.

"I strongly disagree with the notion that imports of steel and aluminum, automobiles and auto parts somehow could pose a national security threat," he said in December.

A Democrat-controlled House will also likely play a major role in scrutinizing the administration's new North American trade deal. U.S. Trade Representative Robert Lighthizer has begun quiet negotiations to win support from key Democrats in both the House and Senate, who are calling for the NAFTA replacement's provisions on labor enforcement to be strengthened.

Adam Behsudi, Helena Bottemiller Evich, Toby Eckert, Caitlin Emma, Alex Guillén, Kimberly Hefling, Nick Juliano, Ian Kullgren, John Lauinger, Connor O'Brien, Rebecca Rainey, Jennifer Scholtes, Michael Stratford and Zachary Warmbrodt contributed to this report.

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Exhibit I

JA145

renowned architect Der Scutt, this 68 story bronze glass structure on Fifth



This property is zoned for 9 luxurious homes. It has been

a 2,000 acre vineyard in Charlottesville, Vir

accompanying financial statement and,

We have not audited or reviewed the

news. At June 30, 2011, there were 55 home
from \$3,000,000 to \$12,000,000.

valued at \$261,000,000 based on an assessment made by

In addition to the Club, Trump National Golf Club is presently zoned for 75 home sites

Politics

How Donald Trump inflated his net worth to lenders and investors

By David A. Fahrenthold and Jonathan O'Connell March 28, 2019



When Donald Trump wanted to make a good impression — on a lender, a business partner, or a journalist — he sometimes sent them official-looking documents called “Statements of Financial Condition.”

These documents sometimes ran up to 20 pages. They were full of numbers, laying out Trump’s properties, debts and multibillion-dollar net worth.

But, for someone trying to get a true picture of Trump’s net worth, the documents were deeply flawed. Some simply omitted properties that carried big debts. Some assets were overvalued.

JA146

TRUMP'S 'STATEMENTS OF FINANCIAL CONDITION'

See the full documents here

- [2011 statement](#)
- [2012 statement](#)
- [2013 statement](#)

For instance, Trump's financial statement for 2011 said he had 55 home lots to sell at his golf course in Southern California. Those lots would sell for \$3 million or more, the statement said.

But Trump had only 31 lots zoned and ready for sale at the course, according to city records. He claimed credit for 24 lots — and at least \$72 million in future revenue — he didn't have.

He also claimed his Virginia vineyard had 2,000 acres, when it really has about 1,200. He said Trump Tower has 68 stories. [It has 58.](#)

GIVES INCORRECT NUMBER OF HOME LOTS IN CALIFORNIA

In addition to the Club, Trump National Golf Club is presently zoned for 75 home sites with unparalleled ocean and golf course views. At June 30, 2011, there were 55 home sites that will sell for prices that range from \$3,000,000 to \$12,000,000.

At that point, only 36 lots were actually approved for sale, and by this point 5 had already been sold. That left 31 – not 55 – available for sale. Since Trump was promising he could sell them for at least \$3 million each, there was a \$72 million gap between his claims and reality.

ADDS 10 STORIES TO TRUMP TOWER

Trump Tower stands as a symbol of quality and success and is unequaled in the quality of its retail, professional office and private condominium space. Designed by renowned architect Der Scutt, this 68 story bronze glass structure on Fifth Avenue boasts 178,000 square feet of commercial space and 114,000 square feet of retail space. Some of the major tenants are Gucci America Inc., Industrial and Commercial Bank of China, T Capital Management and Star Branding (Tommy Hilfiger ventures).

Trump Tower only has 58 stories, but Trump re-numbered the floors to make it seem taller.

Now, investigators on Capitol Hill and in New York are homing in on these unusual documents in an apparent attempt to determine whether Trump's familiar habit of bragging about his wealth ever crossed a line into fraud.

The statements are at the center of at least two of the inquiries that continue to follow Trump, unaffected by the end of special counsel Robert S. Mueller III's investigation. On Wednesday, [the House Committee on Oversight and Reform said it had requested 10 years of these statements from Trump's accounting firm, Mazars USA.](#)

And earlier this month, the New York state Department of Financial Services subpoenaed records from Trump's longtime insurer, Aon. A person familiar with that subpoena, who spoke on the condition of anonymity to describe an ongoing investigation, said "a key component" was questions about whether Trump had given Aon these documents in an effort to lower his insurance premiums.

Both inquiries stemmed from testimony last month by Trump's former lawyer Michael Cohen, who told Congress that Trump had used these statements to inflate his wealth — and then sent them to his lenders and his insurers.



Michael Cohen, former personal attorney to President Trump, testified before the House Oversight Committee on Feb. 27 and submitted some of Trump's financial statements as exhibits. (Matt McClain/The Washington Post)

"Mr. Trump is a cheat," Cohen said, in describing what the statements showed.

Cohen told Congress that statements were given to Deutsche Bank, as Trump sought a loan to buy the NFL's Buffalo Bills. Since then, Deutsche Bank and another Trump lender have also received subpoenas, from the New York State attorney general.

The statements may additionally draw the interest of the House Financial Services Committee, which is scrutinizing Deutsche. A committee spokesman declined to comment.

The White House declined to comment for this report.

5/13/2019 Case 1:19-cv-01196 Document 20 Filed 05/13/19 Page 64 of 79
How Donald Trump's financial documents paint a misleading picture of his wealth | Washington Post
The Trump Organization also declined to comment about the statements or answer questions about specific errors the statements contained. Donald Trump Jr. and Eric Trump, the president's sons who are running his business, noted on social media that Cohen has provided false testimony about other topics.

Mazars USA, the accounting firm, issued a brief statement Wednesday after the House Oversight letter became public, saying that it "believes strongly in the ethical and professional rules and regulations that govern our industry, our work and our client interactions." It declined to comment further about Trump.

The Washington Post reviewed copies of these documents for 2002, 2004, 2011, 2012 and 2013 — obtaining them from court files, from people who received them from Trump's company, and from Cohen. Cohen also provided copies of documents from [2011](#), [2012](#) and [2013](#) to Congress.



Recently unveiled financial statements from 2011 to 2013 paint a misleading picture of Donald Trump's net worth. Here's why that's significant. (Monica Akhtar, Brian Monroe/The Washington Post)

Since the 1980s, Trump has defined himself by his wealth, but he has often avoided providing proof to back up his boasts or provided documents that inflated the real values. As president, Trump has declined to release his tax returns, unlike every president since Jimmy Carter.

Trump is far from the first real estate developer to inflate his projects or wealth. But there are laws against defrauding insurers and lenders with false information. Financial and legal experts said it's unclear at this point whether Trump will face any legal consequences. They said it depends on whether Trump intended to mislead or whether the misstatements caused anyone to give him a financial benefit.

"How much would [the errors] impact an investor?" said Kyle Welch, an assistant professor of accountancy at George Washington University. "If it's systematic and it's across the board, and it's all in one direction, that's where you have a problem."

Welch said Trump could be protected by disclaimers that his own accountants added to the statements, warning readers that they weren't seeing the full picture. And in an odd way, Welch said, Trump could be helped by the sheer scale of the exaggerations. They were so far off from reality, Welch wondered whether any real bank or insurer could have been fooled.

Welch said he'd never seen a document stretch so far past the normal conventions of accounting.

"It's humorous," Welch said. "It's a humorous financial statement."

Investigators for the New York State Department of Financial Services, which sent subpoenas to Aon, and the New York State attorney general — who subpoenaed Deutsche Bank — declined to comment. Aon and Deutsche Bank also declined to comment, beyond saying they plan to cooperate with investigators.

The story of Trump's "statements of financial condition" — in essence, sales brochures for Trump the man, given out by Trump the company — goes back to the early 1980s, according to past testimony from Trump's accountants and staffers.

In 2007, a Trump lawyer named Michelle Lokey said she had sent these statements out to Trump's lenders, for projects in Chicago and Las Vegas, because Trump had personally guaranteed those loans. That meant that if Trump's company defaulted on its obligations, the lenders could come after Trump's personal assets.



Trump International Hotel & Tower in Chicago was one of the two properties that were not included in some Trump financial statements. Both buildings were carrying mortgages. (Joshua Lott for The Washington Post)

“Therefore they’d want information on his net worth?” an attorney asked Lokey.

“I assume,” she said.

The statements were prepared by Trump’s longtime accountants, a firm now called Mazars. In other contexts — such as when one of Trump’s companies was seeking to secure a federal contract — this firm prepared rigorously audited financial statements.

When compiling these statements of financial condition, those accountants have said they did not verify or audit the figures in the statements. Instead, when Trump provided them data, they wrote it down without checking to see whether it was accurate.

“In the compilation process, it is not the role of the accountant to assess the values,” said Gerald J. Rosenblum, one of the accountants. “The role is to accept those values and move them forward.”

An attorney asked: Do the values have to be logical?

“The value per se does not have to be logical,” Rosenblum said. He and Lokey were deposed as part of a lawsuit in which Trump sued a New York Times reporter for allegedly lowballing his net worth. Trump’s suit against the reporter was later dismissed.

In 2014, Trump used the same accounting firm to prepare financial information for his most expensive development project in decades, his \$200 million transformation of the historic Old Post Office Pavilion in downtown Washington into a Trump International Hotel.

But in that case, Mazars vouched for the accuracy of the information, writing that the firm “is responsible for the preparation and fair presentation of these financial statements” using industry standard accounting rules. This was a formal audit of finances related just to Trump’s D.C. hotel, rather than a summation of all of his assets based on Trump’s own estimates.

The statements Cohen provided to The Post — and to Congress — begin in 2011. Two of them are 20-page “Statements of Financial Condition” signed by Trump’s accountants.

In his testimony to Congress, Cohen said these statements included Trump’s self-appraisals of his buildings’ value — which aimed to impress, instead of aiming for reality. Cohen said Trump would take real measures of value, such as the amount of money his tenants paid in rent, and simply inflate it until he got a number he liked.

"If you're going off of your rent roll, you go by the gross rent roll times a multiple," Cohen said. "And you make up the multiple."

The documents begin with two-page disclaimers, warning of various ways in which the statements don't follow normal accounting rules. The accountants note that Trump is the source of many buildings' valuations — and that, contrary to normal accounting rules, he had inflated them by counting future income that wasn't guaranteed.

ACCOUNTANT'S WARNING

To Donald J. Trump:

We have compiled the accompanying statement of financial condition of Donald J. Trump as of June 30, 2012. We have not audited or reviewed the accompanying financial statement and, accordingly, do not express an opinion or provide any assurance about whether the financial statement is in accordance with accounting principles generally accepted in the United States of America.

Trump calls this a "statement of financial condition." But right away, his accounting firm is warning readers that it hasn't checked anything in this document to be sure it's accurate.

The accountants also note that Trump had told them to simply omit two of his major hotels, in Chicago and Las Vegas. Both buildings were carrying mortgages. That omission means that some of Trump's actual debt load was hidden from anyone reading the statement.

"Users of this financial statement should recognize that they might reach different conclusions about the financial condition of Donald J. Trump" if they had more information, the statement concludes.

Legal experts interviewed by The Post said that sort of broad disclaimer might shield Trump from allegations that he misled his lenders and insurers. After all, his own accountants told readers they weren't getting the full story.

"The transparent disclaimers — even if frustrating — typically wipe out a basis" for bringing charges of fraud, said Jacob Frenkel, a former federal prosecutor who is now a private attorney at Dickinson Wright.

In 2012, Trump's statement said he owned a 2,000-acre vineyard in Virginia. But land records in Virginia show the Trump family owns about 1,200 acres. The Trump winery's own website says 1,300 acres.

EXAGGERATES SIZE OF VINEYARD

Mr. Trump and entities that he owns, control several other active businesses as well as other assets. The assets related to these interests include:

- a 2,000 acre vineyard in Charlottesville, Virginia along with a carriage museum, office building and several other buildings

The vineyard sits on a 1,205 acre property, of which only about 227 acres are planted with grapes.

In 2011, the statements said that Trump's Seven Springs estate in Westchester County, N.Y., was "zoned for nine luxurious homes." In the statement, Trump said those homes would yield significant cash flow as he built them and sold them. That led him to value the property at \$261 million — far more than the roughly \$20 million value assigned by local assessors.

EXAGGERATES VALUE OF WESTCHESTER COUNTY ESTATE

Westchester County, New York

An entity wholly owned by Mr. Trump acquired a property known as The Mansion at Seven Springs in Bedford, New York which consists of over 200 acres of land, a mansion and other buildings. This property is zoned for 9 luxurious homes. It has been valued at \$261,000,000 based on an assessment made by Mr. Trump in conjunction with his associates and outside professionals of the projected net cash flow which he would derive as those units are constructed and sold, and the estimated fair value of the existing mansion and other buildings.

At the time, local officials assessed the land's value at about \$20 million, a fraction of the value Trump assessed.

At the time, Trump had received preliminary "conceptual approval" to build homes on the site. But local officials said he never finished the last step in the approval process to build the homes or sell the lots.

None of the homes was built.

The 2013 statement that Cohen provided — and which he said was also given to Deutsche Bank, in pursuit of a loan to buy the Bills — is different from the other two.

It is just two pages long, with a slightly different title: “Summary of Net Worth.” It does not include the usual disclaimer from Trump’s accountants, so readers aren’t told that the debts from Trump’s Chicago and Las Vegas hotels are missing.

TWO BUILDINGS ARE MISSING

Accounting principles generally accepted in the United States of America require that personal financial statements include all assets and liabilities of the individual whose financial statements are presented. The accompanying statement of financial condition does not include the following for Trump International Hotel & Tower Chicago and Trump International Hotel & Tower Las Vegas: 1) real property and related assets, 2) mortgages and loans payable, and 3) guarantees which Donald J. Trump may have provided.

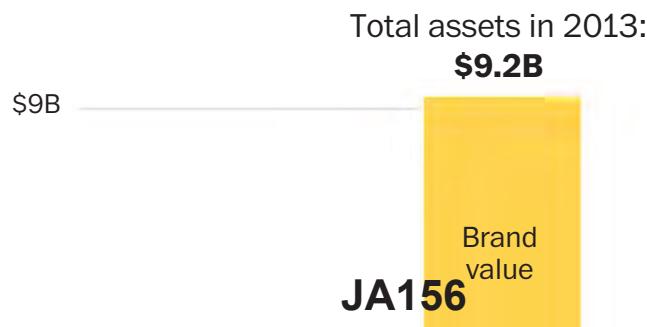
Here, Trump is exaggerating his wealth by leaving two major parts of his portfolio out. His buildings in Las Vegas and Chicago – both of which had loans attached to them – are simply left out of this statement. Without them, readers can’t get a full picture of how much he owes, and to whom.

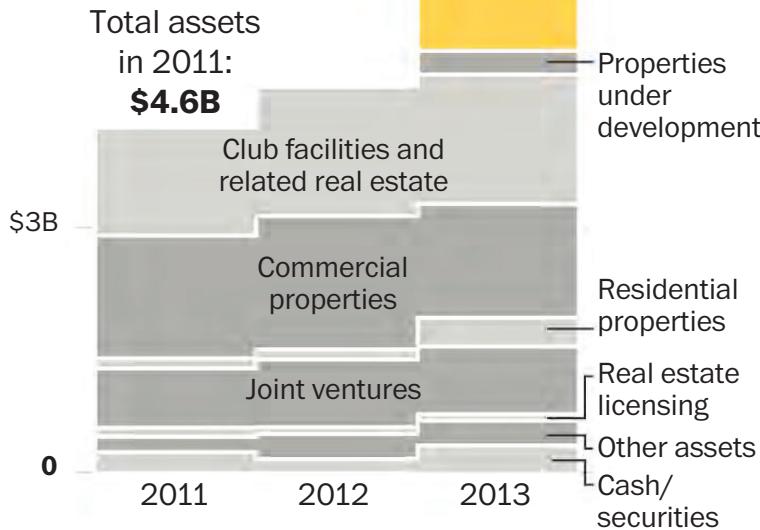
This document also includes a new “asset” that wasn’t there before.

It says that Trump’s brand value — his name, essentially — was worth \$4 billion, and that it ought to be counted among his assets as if it were a building or a resort. With his brand included, Trump’s net worth jumped from \$4.6 billion to \$8.6 billion.

Trump’s \$4 billion asset

Trump added “brand value” as an asset in 2013, valued at \$4 billion, doubling his net worth from previous years.





For Trump, the Bills would have been a financial prize far larger than any he had won in the recent past: Bids were expected to be around \$1 billion.

In public, Trump had bragged that he was ready to pay \$1 billion in cash. But privately, one of his lieutenants told a business contact that they were struggling with the bid.

“We are looking at the Bills but Allen and I are having trouble making the numbers work!!!” wrote Ron Lieberman, an executive vice president at the Trump Organization, in an email to a contact in the New York City parks department. “Allen” likely meant Allen Weisselberg, Trump’s longtime chief financial officer.

Lieberman’s email was released this year in response to a public-records request from a nonprofit group, NYC Park Advocates. Lieberman and Weisselberg did not respond to requests for comment this week.

Whatever Trump sent to Deutsche Bank, it seems to have been enough: The New York Times reported that Deutsche Bank [agreed to vouch for Trump’s bid](#) for the Bills, citing an unnamed executive. But Trump lost a bidding war, and somebody else bought the team.



Jonathan O'Connell

Jonathan O'Connell is a reporter focused on economic development, corporate accountability and the Trump Organization.



David A. Fahrenthold is a reporter covering the Trump family and its business interests. He has been at The Washington Post since 2000, and previously covered Congress, the federal bureaucracy, the environment and the D.C. police.



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Trump's legal troubles are far from over even as Mueller probe ends

Nearly every organization Trump has run in the past decade remains under investigation by state or federal authorities.



As the 'King of Debt,' Trump borrowed to build his empire. Then he began spending hundreds of millions in cash.

The reversal in strategy is unusual for the real estate industry.



Trump 'inflated his total assets when it served his purposes,' Cohen alleges in his hearing, citing financial documents

Exhibit J

JA159

POLITICO



Democrats are laying the groundwork for more high-profile hearings as the 2020 presidential race heats up. | Brendan Smialowski/AFP/Getty Images

CONGRESS

Democrats weigh a 'Benghazi Trump' strategy

The White House is refusing to hand over documents and impeachment proceedings seem unlikely, so the Democrats are turning to hearings to bludgeon the president.

By **DARREN SAMUELSON** and **ANDREW DESIDERIO** | 05/01/2019 05:04 AM EDT

Democrats may not be able to saddle President Donald Trump with impeachment proceedings or pry documents from his administration, but they have another means of bludgeoning him: hearings, hearings and more hearings.

It's a counterstrategy to the president's all-out resistance to congressional investigations,

la

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counsel Robert Mueller are all but guaranteed to draw blanket media attention. And even if the boldfaced names don't show up, party leaders recognize that the spectacle of empty chairs and drawn-out legal fights could dog Trump and create negative narratives during the 2020 presidential race.

"Let's face it: Most Americans are not going to read a 400-plus-page report," said Georgia Rep. Hank Johnson, a senior Democrat on the House Judiciary Committee, referencing the special counsel's [report](#) summarizing the nearly two-year Russia probe. "They would much rather see something on TV that they can make conclusions for themselves about. That's the age we're living in. It's almost entertainment."

Democrats say a spate of hearings will also highlight Trump's efforts to stonewall their myriad probes. The president has resisted at least half a dozen subpoenas from House committees and launched an [unprecedented series](#) of federal lawsuits to invalidate some of the information requests.

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The approach is almost as much political as it is tactical. It gives Democrats a chance to navigate around the thorny impeachment question while still showcasing their majority and flexing their investigative chops. And they might even uncover some wrongdoing along the way just as the 2020 presidential race heats up.

"There's a big sentiment amongst some that they should 'Benghazi' Trump," said Julian Epstein, a former senior House Democratic aide, referring to how Republicans spent two

years relentlessly holding hearings about the 2012 terrorist attack in Libya, a process that revealed Secretary of State Hillary Clinton's private email server. The unexpected discovery haunted Clinton's 2016 presidential campaign.

Epstein, who served as chief counsel for the House Judiciary Democrats during the Bill Clinton impeachment fight, said a spate of hearings has two purposes: creating a political weapon to weaken the president going into 2020 and satisfying a party base frustrated that the House hasn't moved to impeach the president.

"Democrats are trying to figure out what their off-ramp is here," he said.

One, he said, is the hearing-laden "Benghazi" approach. Another is a censure resolution that passes on the House floor, effectively serving as a formal wrist slap for Trump. "They don't have a lot of good options," Epstein said.

Trump and his administration have been eager to play the political card, too.

White House officials have either refused to turn over documents or delayed producing them to 12 House committees, according to Democratic aides. Several administration officials have ignored requests for interviews and testimony. Barr, for example, is resisting plans to appear Thursday before the House Judiciary Committee because Democrats want to allow the panel's Republican and Democratic staff counsels to ask the attorney general an additional hour of questions about the Mueller investigation.

The president and his allies argue that Trump has the authority to fight House Democrats because they were openly taunting him with plans to launch their investigations and discussing impeachment since well before last year's midterm elections returned them to power.

CONGRESS

Pelosi holds firm as some fear impeachment window closing

By HEATHER CAYGLE, KYLE CHENEY and ANDREW DESIDERIO

"By the time you hear all that, you say, 'What am I, a sucker? I'm going to go in front of these people who want to hang me?'" Rudy Giuliani, the president's personal lawyer, told POLITICO. "This is a complete political game now. It's even being calculated by them based on are they going to get hurt or not by carrying it on."

Still, Democrats continue to lay the groundwork for more high-profile hearings.

On the Oversight panel, they issued a subpoena to a former White House official to testify about potential security clearance abuses. The gathering would shed a spotlight on allegations that staffers, including Trump son-in-law and senior presidential adviser Jared Kushner, were granted clearances after initially being denied.

Over at the Judiciary Committee, Democrats are angling to hold what might be the most blockbuster hearing — with Mueller himself. They've subpoenaed the Justice Department for Mueller's full report and his underlying evidence and are in talks to get the special counsel to testify as early as next week. They've also authorized subpoenas for a slate of former top Trump aides, including Hope Hicks, Reince Priebus and Steve Bannon — all of whom would create spectacle hearings that resonate beyond the Beltway.

And one attention-grabbing hearing could be rescheduled in the coming weeks. Felix Sater, the chief negotiator for Trump's failed election-year attempts to build a Trump Tower in Moscow, had previously agreed to testify, but his appearance was pushed off until after the Mueller report came out.

"We need to put some color around the Mueller report and really come to a conclusion in concert with the American people over what the proper response is," said Rep. Jim Himes (D-Conn.), a member of the Intelligence Committee.

"And until people are more familiar with the details of what occurred, it's hard to come to a unified notion," Himes added. "Certainly, in my district and around the country, there's ambivalence about the right mechanism of accountability for the president. Just as in the 1970s, we need to do more work and better understand what occurred."

With the never-ending gush of news, each hearing could come on the heels of revelations, giving lawmakers a rare chance to publicly press key players. For instance, just hours before Barr was set to testify before the Senate on Wednesday, it came out that Mueller had sent him a letter expressing frustration with the attorney general's initial characterization of his report.

Within minutes, Sen. Amy Klobuchar (D-Minn.), a presidential candidate who will question Barr as a member of the Senate Judiciary Committee, had tweeted: "Barr will have to answer for this at our hearing. Updating my questions!"

The high-profile hearing formula has worked for Democrats in the past.

When Michael Cohen, Trump's former personal attorney and fixer, testified in February, it was appointment viewing. Trump fumed at the revelations from the public hearing, and

Cohen's appearance launched new avenues of investigation. Both House Democrats and New York authorities subpoenaed documents related to Trump's financial records based on Cohen's answers.

Some Democrats who have been in the oversight trenches argued that the strategy shouldn't be viewed through a 2020 lens, though.

"Their responsibility is to be methodical and follow the facts," said Phil Schiliro, the former Obama White House legislative director and a veteran House Democratic aide under then-Oversight Chairman Henry Waxman. "That's not something that happens quickly."

Even House Democrats are fretting about their limited time to notch victories as they square off against a Trump White House willing to push many oversight battles into the courts.

MUELLER INVESTIGATION**Mueller complained to Barr about Russia report memo**

By NATASHA BERTRAND, DARREN SAMUELSON, JOSH GERSTEIN and KYLE CHENEY

California Rep. Eric Swalwell, a 2020 White House hopeful who serves on both the Judiciary and Intelligence committees, said in an interview that it wouldn't take much for Trump to "run out the clock" on Democratic document and testimony demands.

Others warned that Democrats might appear overzealous and even create sympathetic witnesses during a parade of highly publicized hearings.

"Do you really want to put Hope Hicks on TV? She's going to win that," said a Washington-based defense attorney who worked on the Mueller investigation.

Several Republicans say that Democrats would have more options for getting materials from Trump's administration, and even underlying materials at the center of Mueller's investigation, if they open formal impeachment proceedings. So far, that's a step Democratic leadership has been reluctant to endorse.

"I don't know, frankly, if it's such a bad thing for Democrats to do that. Once you get these things and you explore it, who knows where it goes?" said Tom Davis, a former Virginia GOP congressman who chaired the House Oversight Committee.

William Moschella, who ran the Justice Department's congressional affairs office during the George W. Bush administration, said the Democratic clamor for documents and

testimony “seems to be adding fuel to the impeachment fire” even as party leaders try to stay away from the topic.

“The Hill must know that these various unorthodox requests are going to be rebuffed, and when they are, members are going to claim that those refusals are evidence of obstruction and that they must defend the institutional integrity of the House,” he said. “To mix metaphors, these things have a way of snowballing.”

Democrats counter that Trump’s run-out-the-clock strategy will damage his reelection chances.

Democrats expect they’ll prevail in court against Trump’s efforts to invalidate their subpoenas, including those seeking Trump’s financial information.

“If we get the information, he’s seen as violating the law or supporting a position that is contrary to the law, and we get the information anyway, that’s not a winning strategy for him,” said Rep. Stephen Lynch (D-Mass.), a senior member of the Oversight panel.

And it’s those same battles that Democrats say could still produce the kinds of smoking guns could be found in the heat of the 2020 campaign.

“I don’t think it serves him to delay all this,” Swalwell said, “because if he knows his history, he will see that the courts are going to rule against him, and the courts take time to make their rulings and so the rulings could come out at a time when Americans are thinking about who they want to lead them.”

Kyle Cheney contributed to this report.

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JA165

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

DONALD J. TRUMP, ET AL.,)	
)	
Plaintiffs,)	
)	CV No. 19-1136
vs.)	Washington, D.C.
)	May 14, 2019
ELIJAH E. CUMMINGS, ET AL.,)	11:00 a.m.
)	
Defendants.)	
)	

TRANSCRIPT OF ORAL ARGUMENT PROCEEDINGS
BEFORE THE HONORABLE AMIT P. MEHTA
UNITED STATES DISTRICT JUDGE

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Proceedings recorded by mechanical stenography; transcript produced by computer-aided transcription

1 P R O C E E D I N G S

2 DEPUTY CLERK: All rise. This court is now in
3 session, the Honorable Amit P. Mehta presiding.

4 THE COURT: Please be seated.

5 Good morning, everyone.

6 DEPUTY CLERK: Your Honor, this is Civil
7 Action 19-1136, Donald J. Trump, et al., versus Committee on
8 Oversight and Reform of the United States House of
9 Representatives, et al.

10 Would counsel please approach the lectern and
11 state your appearances for the record.

12 MR. CONSOVOY: Good morning, Your Honor.

13 Will Consovoy on behalf of President Trump.

14 Along with me today are Patrick Strawbridge and
15 Cameron Norris.

16 THE COURT: Mr. Consovoy, good morning. Welcome.

17 MR. PASSANTINO: Good morning, Your Honor.

18 Stefan Passantino on behalf of the Trump Organization, the
19 Trump Old Post Office, the Trump Revocable Trust, and all of
20 the other corporate entities.

21 THE COURT: Mr. Passantino, good morning.

22 MR. BERNSTEIN: Good morning, Your Honor.

23 For Mazars USA, LLP, Jerry Bernstein of Blank Rome LLP.

24 THE COURT: Mr. Bernstein, good morning.

25 MR. BERNSTEIN: Good morning.

1 THE COURT: Mr. Bernstein, while you're up here,
2 will you be asking for any time this morning?

3 MR. BERNSTEIN: I will not, Your Honor.

4 THE COURT: All right. Thank you.

5 MR. LETTER: Good morning, Your Honor.

6 Douglas Letter from the United States House of
7 Representatives.

8 And with me today is Todd Tatelman, Sally Clouse,
9 Megan Barbero, Jody Morse, and Brooks Hanner.

10 THE COURT: Counsel, good morning.

11 All right. Ladies and gentlemen, good morning.

12 Before we get started, I want to make something
13 abundantly clear about today's proceedings: I will not be
14 ruling from the bench.

15 We judges are not insulated from what the media
16 says and writes about cases before us, and there's been a
17 lot of incorrect speculation that my order of last Thursday
18 was intended to convey that I plan to rule from the bench
19 after today's hearing. The order said no such thing, and
20 any suggestion that I will announce my decision today is
21 just wrong.

22 The issues that are presented here today are
23 serious. The case involves the intersection of powers of
24 the legislative branch in the interests of the President of
25 the United States. No judge would make a hasty decision

1 involving such important issues for the sake of expediency.

2 The parties deserve the Court's full attention and
3 an opportunity to be heard. And that is the sole purpose of
4 today's hearing, to give the parties an opportunity to be
5 heard.

6 The reason I issued the order to consolidate is
7 because that is what I believe the Supreme Court and the
8 D.C. Circuit have directed me to do in cases like this one.

9 The Court in *Eastland* stated in context of a
10 challenge to a congressional subpoena that "such motions
11 must be given the most expeditious treatment by District
12 Courts because one branch of government is being asked to
13 halt the functions of a coordinate branch."

14 And in *Exxon versus FTC*, the Circuit observed that
15 *Eastland* emphasized the necessity from courts to refrain
16 from interfering or delaying the investigatory functions of
17 Congress.

18 My ruling will come after I've had a sufficient
19 time to consider what the parties have written, what is said
20 today, and the evidence that has been submitted.

21 My decision in this case will be issued promptly,
22 but it will be issued on a timeline that reflects the
23 gravity of the issues presented and the importance of the
24 issues to the parties.

25 And so with that, let me turn to Mr. Consovoy.

1 Let me hear from the plaintiffs.

2 MR. CONSOVOY: Your Honor, just a question to
3 begin.

4 THE COURT: Yes.

5 MR. CONSOVOY: You said we would take up the
6 objections. Do I understand Your Honor to have overruled
7 them?

8 THE COURT: No -- well, let's put it this way:
9 I'm happy to hear them.

10 Let's have a discussion about that. What I'd like
11 to actually do is start with the merits, and then we can
12 talk about the consolidation order and what it is you all
13 think you need in terms of additional time, evidence, or
14 argument, and we can take that up.

15 MR. CONSOVOY: Thank you, Your Honor.

16 Your Honor, on the merits, as we've stated in
17 summary fashion in our filings, we believe this subpoena
18 lacks a legitimate legislative purpose for two principal
19 reasons.

20 First, this is an effort to engage in law
21 enforcement, not to legislate.

22 And, second, any legislation that the committee
23 could point to or speculate about would exceed its powers
24 under Article I, Section 8 and, therefore, does not provide
25 a proper legislative basis.

1 THE COURT: So let's start, if we could, with
2 Chairman Cummings' memorandum of April the 12th and in its
3 conclusion section -- why don't you go ahead and grab it --
4 he identifies four grounds as the reason for the issuance of
5 the subpoena plus a catch-all statement about legislation.
6 So let's take these in reverse order.

7 First, he says that the subpoena's necessary to
8 review whether the President has accurately reported his
9 finances to the Office of Government Ethics and other
10 federal entities.

11 So is it your position that an investigation into
12 whether the President has properly and accurately reported
13 his finances, that's not subject to investigation by
14 Congress?

15 MR. CONSOVOY: Correct.

16 So that is a pure law enforcement.

17 Now, if Congress wants to point to a legislative
18 bill that it thinks would be relevant to that, then there's
19 a whole separate discussion to be had.

20 THE COURT: But does Congress have to do that?
21 Do they have to identify a bill in advance?

22 In fact, the Supreme Court has said just the
23 opposite, which is that you don't have to identify a bill in
24 advance and it need not be attendant to any investigatory
25 request.

1 MR. CONSOVOY: So the Supreme Court has said two
2 different things here. I think the Court has said that as
3 long as there's a possibility for legislation, that can be
4 sufficient.

5 The Court has also said, though, that once the
6 committee, like any government actor says things, they can't
7 take it back and so -- and what *Watkins* called retroactive
8 rationalizations about their behavior.

9 And if you look at this letter and many other
10 letters that Chairman Cummings has issued and some of the
11 other evidence we've submitted for the record, they have
12 made clear that this is not about legislation.

13 They said they want to know if there's been
14 wrongdoing. They would like to know if things have been
15 done improperly. And that is not the purpose of Congress.

16 And if it is --

17 THE COURT: Do you disagree -- I mean, there's
18 some suggestion in the case law, in particular, in *Watkins*
19 and *Sinclair*, that independent of Congress' function in
20 passing and considering legislation, that it has this
21 informing function; that is, a function of informing itself
22 and informing the public of wrongdoing in office,
23 corruption, maladministration, inefficiencies, the words
24 that are used in *Watkins*.

25 MR. CONSOVOY: Yes.

1 THE COURT: Why would not an investigation into
2 the President's accuracy of his disclosures fall within that
3 function, that informing function was described in *Watkins*?

4 MR. CONSOVOY: Two responses, Your Honor.

5 One, because the President is not an agency. All
6 of those cases go to agencies.

7 And we don't deny that with respect to the actions
8 of agencies, which are created by Congress and which
9 Congress supervises in a far different way than the Office
10 of the President, that it does have a supervisory function.
11 And that goes all the way back to *McGrain* when it was the
12 early case about the Attorney General.

13 THE COURT: This is not this case, but say that
14 the belief was the President -- a president was involved in
15 some corrupt enterprise. You mean to tell me that because
16 he's the President of the United States, Congress would have
17 no ability to investigate him?

18 MR. CONSOVOY: In terms -- I can only speak to
19 this, this --

20 THE COURT: Right. I'm not saying this case.
21 I'm asking you if that's your position, that if there was a
22 question about a corrupt enterprise and we -- historically,
23 we already know that there have been investigations of
24 presidents and their conduct. But is it your position that
25 if that were the case, that because the President's not an

1 agency, that there could be no investigation by Congress?

2 MR. CONSOVOY: Not pursuant to a legislative
3 agenda.

4 I mean, I have to take the committee at its word.
5 The committee, both in the chairman's letters, in the
6 subpoena, and in its briefs to this Court has chosen its
7 ground. And as Your Honor knows, it has chosen the ground
8 set forth in these memos.

9 You can imagine other cases and other instances
10 and potentially other powers at issue. But that's not this
11 case. And the rules of waiver and forfeiture apply to the
12 committee no less than anyone else.

13 THE COURT: Understood.

14 But I guess the question is, your view is that the
15 committee investigation on the accuracy of the President's
16 financial reporting would not qualify as a basis for
17 investigation, at least in terms of its exercise of its
18 legislative authority?

19 MR. CONSOVOY: Correct.

20 THE COURT: Okay.

21 MR. CONSOVOY: And for the two reasons I outlined
22 at the top, and we've focused on the one, which is leg- --
23 investigating for investigation's sake.

24 The second half, though, is even if you credit the
25 committee with all of the statements they've made, including

1 some of the post hoc statements that were made in briefs
2 that weren't made in the letters, there's still an
3 underlying question that the D.C. Circuit said in *Tobin* this
4 Court would have to answer, which is, is that legislation,
5 whether in existence, in a bill, or imagined, could it be
6 constitutional?

7 THE COURT: Right.

8 You don't mean to suggest that I have to undertake
9 a constitutional determination of a piece of legislation
10 that doesn't exist?

11 MR. CONSOVOY: I do. With respect. And *Tobin*
12 says so. *Tobin* is an interesting case.

13 So *Tobin* is a subpoena to the
14 Port Authority of New York on matters of internal
15 administration because there were questions about corruption
16 there.

17 The Port Authority went into contempt.

18 THE COURT: I thought the Circuit there intended
19 to avoid the constitutional question, just the opposite.

20 MR. CONSOVOY: I think we agree. They interpreted
21 the subpoena quite narrowly so --

22 THE COURT: Right.

23 MR. CONSOVOY: -- they would have not have to
24 answer that constitutional question.

25 The committee has not offered you that side exit,

1 with respect. They have pushed it to the limits by saying
2 that the chairman is intending to amend the conflict of
3 interest laws to encompass the Presidency, which Judge
4 Silberman then, not Judge Silberman's memo from Office of
5 Legal Counsel says would violate the Constitution.

6 They're saying they want to put the President's
7 financial affairs into a blind trust that would clearly
8 violate *Powell versus McCormack* and term limits. And that's
9 really the extent, everything is like that.

10 And so under *Tobin*, the Court, I agree, they said,
11 We need to read this narrowly to avoid what was an amazingly
12 important constitutional issue, which was whether they were
13 going to violate the compact clause that created the
14 Port Authority.

15 And the Court was quite frustrated with Congress
16 that it had pushed the Court to have to decide that question
17 in the context of a subpoena.

18 But I don't think the Court was suggesting that if
19 they -- if there was no way to avoid the question, that they
20 simply could abstain from answering it.

21 THE COURT: So let's turn to emoluments, then.
22 One of the other reasons offered is whether the President is
23 complying with the emoluments clause of the Constitution.
24 Why is that, in your view, not a proper subject of
25 investigation by Congress?

1 MR. CONSOVOY: So I'll answer it directly, but if
2 I could just make a preliminary point.

3 It's not clear to me that the House is actually
4 relying on that when I read its papers on the preliminary
5 injunction, and so I reserve the right to further discuss
6 that, if it comes to the question of forfeiture or waiver on
7 that point.

8 But, again, we don't -- you know, I've been
9 involved in this litigation. I know there's been litigation
10 in this building about it. We don't think that the
11 President's personal financial affairs are the proper
12 reading of the emoluments clause because there's no --
13 that's as we've argued to the Fourth Circuit.

14 THE COURT: But you would agree with me that the
15 emoluments clause, at least your rationale regarding law
16 enforcement, that's not applicable here?

17 MR. CONSOVOY: I'm sorry, Your Honor?

18 THE COURT: Your rationale that you identified for
19 why the finances or the financial disclosures couldn't be
20 investigated, that was a law enforcement function, in your
21 view.

22 MR. CONSOVOY: Well --

23 THE COURT: The emoluments clause, in an
24 investigation with the President's compliance or violation
25 of the emoluments clause, that's not a law enforcement

1 function. That, in fact, if anything, is a function that's
2 strictly of Congress.

3 MR. CONSOVOY: If I could respectfully disagree in
4 part.

5 So you could imagine a case in which you could
6 look at the emoluments clause. I still think you have this
7 big constitutional question about whether any of this has to
8 do with actually the original meaning of the emoluments
9 clause.

10 But what the Supreme Court has said in cases like
11 *Quinn* and others is what Congress can't do is engage in
12 everything that looks like a law enforcement investigation
13 and then say, "And if we find something wrong, we'll take
14 some remedial step because we don't like what we found.

15 That is a law enforcement investigation with a
16 tack on, so to speak, of remedial legislation at the end.

17 And what Your Honor --

18 THE COURT: Right.

19 But here we're not even talking about remedial
20 legislation. We're talking about the President's compliance
21 with a constitutional prohibition or violation of a
22 constitutional prohibition that only Congress has the
23 authority to approve; in other words, approve any kind of
24 emoluments that he may receive.

25 MR. CONSOVOY: I still think that would be in the

1 context of law enforcement. They're not -- I understood
2 your original question to say they might pass new
3 legislation around emoluments.

4 THE COURT: I'm just asking, could, for example,
5 Congress say, We believe that the President of the
6 United States is receiving payments from foreign
7 governments, foreign interests, and we want to investigate
8 that. We want to determine if that's so. And we're going
9 to get financial records from him, from his entities to make
10 that determination.

11 Congress does not have that power, in your view?

12 MR. CONSOVOY: Not in the way you framed it,
13 Your Honor, no, they don't.

14 THE COURT: Why not?

15 MR. CONSOVOY: Because it is still determining
16 whether he's in compliance with law.

17 Federal statutory law is no less supreme than the
18 Constitution and the supremacy clause. They're all supreme
19 law.

20 THE COURT: I don't understand how that jibes with
21 your what I thought was a concession that if the President
22 was engaging in corrupt behavior in office that might
23 violate a criminal law, that that would be a proper subject
24 of investigation.

25 MR. CONSOVOY: I'm sorry if I created any

1 confusion.

2 I don't think that is the proper subject of
3 investigation as to the President.

4 As to agencies --

5 THE COURT: Okay.

6 MR. CONSOVOY: -- I think the question could be
7 different.

8 THE COURT: So, in your view, Congress'
9 investigations in Whitewater, for example, and Watergate
10 were beyond the scope of its constitutional authority?

11 MR. CONSOVOY: I'd have to look at what the basis
12 they were providing.

13 And, again, we have --

14 THE COURT: They were inquiring as to violations
15 of criminal law. It's pretty straightforward. Among other
16 things.

17 MR. CONSOVOY: The question here is, is the
18 legislation that the committee has pointed to a valid basis
19 for this subpoena? Again, other cases --

20 THE COURT: But this isn't -- I don't mean to
21 quibble with you, but this is just what the memo says,
22 emoluments clause. It doesn't say anything about
23 legislation.

24 So they want to know, is he complying with the
25 emoluments clause of the Constitution? That's one of the

1 rationales forward.

2 MR. CONSOVOY: I guess I would stand by my two
3 answers, which is that is still law enforcement; and,
4 second, any -- to the extent that -- and I guess this is
5 beyond the scope of your question.

6 To the extent it has to do with emoluments
7 legislation, it would exceed Congress' authority because
8 none of the activities they're concerned with have to do
9 with that.

10 But, again, Your Honor, we can't just ignore the
11 sum and substance of the overall thrust of what the
12 chairman's letter says.

13 This was about Michael Cohen's testimony. It's
14 right on the face of the letter itself. It says that.
15 There was nothing in that testimony about emoluments. There
16 was nothing -- it was all about inflating of assets and
17 compliance with disclosure laws.

18 They cannot take that back, and that is the
19 situation we must confront in the legal analysis.

20 THE COURT: I'll get to that in a moment, but let
21 me ask you about the third ground here that's identified,
22 which is that to determine whether the President has
23 undisclosed conflicts of interest that may impair his
24 ability to make impartial policy decisions. Is that a fair
25 subject matter for Congress to investigate, in your view?

1 MR. CONSOVOY: So I'm going to be somewhat
2 repetitive, Your Honor, but, no.

3 So, again, that is law enforcement.

4 Congress is saying, are you complying with federal
5 law? That is not -- the Supreme Court, if it says anything
6 clearly, it has said, that is not a proper subject. It must
7 be linked to a legislative agenda.

8 THE COURT: So Congress, in your view, cannot
9 determine -- say, for example, a president had a financial
10 interest in a particular piece of legislation that was being
11 considered or an executive action that he was considering.
12 In your view, Congress could not investigate whether such a
13 conflict of interest -- whether the President has such a
14 conflict of interest or the conflict of interest might in
15 some way bear on decision-making by the President.

16 MR. CONSOVOY: It would lack legitimate
17 legislative purpose. And that is the test.

18 I understand Your Honor is -- you know, the prism
19 by which some of these questions are focused are
20 investigations, and Congress has engaged in an
21 investigation. I understand that.

22 But the test is legitimate legislative purpose.

23 And the Court has said, I don't think *Watkins* or
24 even *Eastland* --

25 THE COURT: It doesn't say -- it's upon -- which

1 legislation could be had, right?

2 And so it is not -- it's not a test that requires
3 Congress to point to any concrete piece of legislation.
4 It's a subject matter test, which is to say subject matter
5 upon which legislation could be had.

6 So, I mean, I've just -- I now identified three
7 different subject areas. And your view is that legislation
8 could not be had as to any of those three.

9 MR. CONSOVOY: That is correct.

10 And this is probably, I think, the most
11 straightforward on these conflict of interest laws.

12 THE COURT: Even though, for example, there could
13 be legislation that arises that might modify or amend the
14 ethics statutes or ethics rules that -- or disclosure laws
15 that will apply to the President.

16 MR. CONSOVOY: There are very few that apply to
17 the President. And the reason for that is the
18 constitutional barrier for Congress doing so. That's
19 what -- I'm going to say Judge Silberman's, out of respect,
20 Judge Silberman's memo.

21 THE COURT: Look, he's binding on me in a lot of
22 ways. I don't know about that letter he wrote 20 years ago.

23 MR. CONSOVOY: He's binding on all of us in many
24 ways.

25 But -- so I think that memorandum from Office of

1 Legal Counsel lays out our position pretty succinctly.
2 It was about Vice President Rockefeller, but the bulk of the
3 analysis was about the effort to apply, I believe it's
4 Section 205, to the President.

5 And Congress can't. The Office of the President,
6 unlike agencies, unlike the principal and inferior officers
7 is created by the Constitution directly.

8 Congress under term limits in *Powell versus McCormack* can't add qualifications to office and can't add
9 procedural requirements that would impair the President's
10 ability to function.

12 Take, for example, Your Honor, if Congress
13 decided, in amending its ethics laws, that the President
14 must come meet with the House for three weeks every January
15 to discuss his forms and how he filled them out, I think
16 that's an obviously unconstitutional statute for multiple
17 reasons.

18 And so this whole area is pretty much fenced off.

19 I understand --

20 THE COURT: I guess shouldn't I, just as you've
21 suggested, the Circuit did in *Tobin*, view Congress as not
22 trying to legislate in a way that is unconstitutional?

23 In other words, shouldn't I be presuming in this
24 case, just as the Circuit did in *Tobin*, that what Congress
25 is doing is not unconstitutional and that leave for a later

1 day, if, in fact, it comes to pass, a concrete case in which
2 that can be tested?

3 I mean, it seems to me that you're asking me to
4 make a whole a lot of the determinations about the
5 constitutionality about potential actions that Congress
6 might take. And that, frankly, strikes me as the essence of
7 opinion-driven judicial decision-making.

8 MR. CONSOVOY: I think *Tobin* stands for the
9 proposition which I've offered it, which is if there's a way
10 to read the subpoena to not raise these issues, I think the
11 Court can do so. I don't think that's available here.

12 At some point, the question is going to be, okay,
13 What is the legitimate legislative purpose?

14 And I will accept for purposes of this proceeding
15 this morning that they don't have to appear -- necessarily
16 all have to appear on the face of the subpoena. I think I'd
17 like to bracket, having put forth evidence, whether Congress
18 can now, in briefing, come up with new ones.

19 But let's just put that aside for a second and
20 assume that it's a blank slate, the worst possible scenario.
21 I don't disagree that there's a way to say, under some of
22 the cases, that the Court can look to see whether any
23 legislation could be had.

24 But at some point, the Court has to say what that
25 legislation might be.

1 And then under *Tobin*, the Court has to say why
2 that legislation would or would not be constitutional.

3 And I don't think there is any permutation of any
4 of these proposals that could meet constitutional muster,
5 given that the Office of the President is quite different
6 than an agency under the Constitution.

7 THE COURT: So let me ask -- am I right that there
8 isn't a single Supreme Court case or any appellate case
9 since 1880 that has found a congressional subpoena to have
10 overstepped the bounds of its legislative function?

11 MR. CONSOVOY: I think --

12 THE COURT: Since *Kilbourn* in 1880, am I right
13 that there's not a single case?

14 MR. CONSOVOY: I think there's at least one.
15 I think it's *Watkins*, but I can check.

16 THE COURT: *Watkins* was a contempt case and was
17 about -- it was a notice question, I think.

18 MR. CONSOVOY: Right.

19 It was a question about vagueness and the breadth
20 and scope of the power --

21 THE COURT: Right.

22 MR. CONSOVOY: -- which I think does --

23 THE COURT: Right.

24 But it wasn't a case in which, as you've suggested
25 here, Congress is stepping into purely personal matters.

1 There isn't any case since *Kilbourn* that has so held.

2 MR. CONSOVOY: As you framed it, yes.

3 But I do think *Watkins* does stand for a broader
4 proposition that there are outer limits that Congress -- I
5 agree that --

6 THE COURT: Right, I agree that there are outer
7 limits. It's not clear to be what they are. They're pretty
8 fuzzy.

9 MR. CONSOVOY: I happen to like *Kilbourn*. I think
10 it is still good law. It is actually, I think, quite
11 similar to this case in many ways.

12 There, the issue was, obviously, there was a
13 bankruptcy for the Jay & Company or something like that, and
14 Congress was disappointed with the way the Federal Court had
15 handled the bankruptcy.

16 And it had a committee, and it looked like it was
17 doing legislative things. And it wanted to investigate this
18 real estate cooperative.

19 And the Court said, I think, two things that
20 matter here. One is, you can't invade the province of
21 another branch inside the executive or the judiciary. And,
22 two, we don't just look at what Congress says; we look at
23 what Congress is doing.

24 I think that's important here, because
25 I understand, there are places where my friend will point to

1 and say, This looks like just another investigation.

2 But when you look at all of the particular
3 statements, and I think *Shelton* and --

4 THE COURT: I mean, aren't you asking me, at the
5 end of the day, to get behind what are facially acceptable
6 purposes and get to the question of motive, which I'm
7 expressly prohibited from getting to?

8 I mean, you acknowledge that the Supreme Court has
9 repeatedly said that I can't look to Congress' motives, even
10 if Congress' motives happen to be the motive that you think
11 it is, which is using subpoenas for political purposes, so
12 long as there is a facially plausible, facially valid
13 legislative reason offered for an investigation, that's
14 really the end of the Court's inquiry, right?

15 MR. CONSOVOY: We are not, Your Honor, looking for
16 the Court to look for hidden or secret motives. We are
17 asking the Court, as this Court has done, or that the
18 D.C. Circuit has done and the Supreme Court did in cases
19 like *Barenblatt*, to look at everything Congress has said,
20 its stated reasons, and draw inferences, conclusions from
21 them, which I believe is exactly -- if you look at
22 *Barenblatt*, the Court looked not just at the subpoenas
23 themselves, it looked at the statements that were made in
24 the committee hearings and other aspects of the legislative
25 record.

1 And as Your Honor pointed, I think, quite fairly,
2 to the letters, so may we.

3 And we think when you look at those letters in
4 their full context -- this is law enforcement -- they want
5 to know if there's been wrongdoing. They want to know if
6 there's inconsistencies.

7 And I guess I would -- this is the question
8 I thought about to myself, which is, what would Congress or
9 the committee have to do here that it hasn't done to make
10 this look like law enforcement?

11 I mean, if you look at the subpoena itself, this
12 isn't -- if you think about how this is supposed to work,
13 Congress says, We'd like to legislate. This is an area of
14 concern. Now let's think about what kind of documents out
15 there in the world that people have that we might find
16 useful. And if they won't give them to us voluntarily or if
17 we feel a subpoena is necessary, we seek it.

18 This is all coming from the other end of the
19 spectrum. We want these things from this person.

20 THE COURT: But am I supposed to -- I mean, this
21 is a question I have for Mr. Letter, too.

22 But if I determine that there is a subject matter
23 upon which Congress could, for which there could be
24 legislation, the records, for example, in this case that
25 Congress is requesting, what role does the Court have in

1 making an assessment as to whether those records are
2 relevant to Congress' purposes?

3 My sense is very little, if any.

4 MR. CONSOVOY: I think Congress gets some room to
5 run here, I don't disagree with that.

6 We're not asking for the Court to go line by line
7 and pencil --

8 THE COURT: It's not just some.

9 I almost wonder whether I have no role. But it's
10 not clear to me what role, if any, I have and what standard
11 I ought to be applying.

12 I mean, I think you agree with me that I can't
13 say, for example, Well, look, you're asking for records back
14 to 2011. That's too far back. It's only 2013. I can't do
15 that. I could do that in a civil case, a regular civil
16 proceeding. I can't do that here.

17 So what, in your view, is the standard, if at all,
18 I ought to be applying to determine the relevancy -- I'm
19 using that word very generally -- of what's being requested?

20 MR. CONSOVOY: I think, most directly, it relates
21 back to determining what the actual purpose for this is.

22 So I think where it does matter is -- I'm not
23 asking the Court to, again, go through it line by line or
24 say, This is okay and that's not.

25 What I am saying, though, just like in *Barenblatt*,

1 the Court looked at all of the public material and said, Is
2 this law enforcement or is this legislative?

3 And when you look at a subpoena that says, Not
4 only give me these underlying documents that we purport to
5 help inform legislation, but we want your underlying
6 contracts and we want all of your communications,"
7 I don't know how that's not law enforcement. That looks
8 like what a law enforcement subpoena would ask for.

9 This doesn't say, Hey, we're going to legislate in
10 the healthcare arena. So please give us documents relating
11 to the insurance markets, or something like that with a
12 broad scope; nor has the committee sought from multiple
13 people who submit these kinds of forms to inform their
14 overall legislative purpose.

15 I think the Court may or may not -- and
16 I understand the Court's hesitation to get into the weeds,
17 so to speak, of the request. But I also don't think the
18 Court can ignore the nature of the request in trying to
19 determine legislative purpose.

20 Unless the Court has further questions...

21 THE COURT: Let's talk about the consolidation and
22 what you think you need in terms of additional time.

23 As I've tried to make clear at the start of this,
24 my purpose in the consolidation order was not to try and
25 pre-terminate your ability to make the record or make your

1 arguments.

2 That said, I think you agree that there's no
3 discovery to be had in this case, at least from the
4 committee. Would you agree with that?

5 MR. CONSOVOY: I don't agree with that.

6 THE COURT: Okay.

7 MR. CONSOVOY: I agree that -- so "from the
8 committee" is maybe a broader statement.

9 THE COURT: From the Oversight Committee.

10 You send interrogatories to the Oversight
11 Committee or you try and depose the chairman, that's not
12 going anywhere.

13 MR. CONSOVOY: Because they would invoke Speech or
14 Debate.

15 THE COURT: Correct.

16 MR. CONSOVOY: But the ranking minority member may
17 not, and he may have documents in his possession that he is
18 interested in sharing.

19 We, out of the respect for the Court and rules of
20 when discovery commenced, have not independently sought any
21 of those materials, including the memorandum of
22 understanding.

23 THE COURT: Well, but that would have to be
24 produced voluntarily, not through process --

25 MR. CONSOVOY: I --

1 THE COURT: -- unless he's asked for it.

2 In other words, you don't need the instruments of
3 the Court to get something from Congressman Jordan. If he's
4 going to turn it over, he'll turn it over. If he's going to
5 give you a statement, he'll give you a statement.

6 But you don't need -- you don't need to rely on
7 the Rules of Civil Procedure or a subpoena to do that.

8 MR. CONSOVOY: Understood.

9 I guess maybe I was overly cautious.

10 But once we filed the Complaint, there had been no
11 Rule 26 conference. It is still seeking discovery from a
12 third party.

13 I agree it may not be coercive discovery, but it's
14 still -- I did not feel it would have been appropriate while
15 we were litigating the preliminary injunction to start
16 engaging in that.

17 THE COURT: How long do you think you'd need to
18 get something from Congressman Jordan if you thought he
19 would be prepared to provide you with something? I mean,
20 you've had some amount of time, but I understand that you
21 might want some more.

22 MR. CONSOVOY: Yeah.

23 So we didn't know we were permitted to go forth,
24 given that there had been no Rule 26 conference and there
25 had been -- if I could just sort of -- the answer is

1 I don't know, Your Honor. I don't think --

2 THE COURT: Look, here's --

3 MR. CONSOVOY: Yeah.

4 THE COURT: This isn't an APA case, but it feels
5 like one.

6 And this isn't a case in which you're going to sit
7 folks down, ask for documents, depositions and the like.

8 This is a legal question. It's a legal question
9 that even the Circuit has said is relying -- the evidence is
10 largely public statements, what Congress has said, and
11 that's really -- that's about it.

12 And so what you can do is collect what they've
13 said in public, and you've done that.

14 We have the letters. You've got media statements.
15 I'm wondering what more you need and how long you need it to
16 make your record, because --

17 MR. CONSOVOY: Right.

18 THE COURT: -- we're not going to drag this out.

19 And so I'd like to know what is it you think you
20 need and how long you think you need to complete the record.

21 And I may give you the time, but I want to know
22 how much time you think you need.

23 MR. CONSOVOY: I think we would ask for the things
24 we would like to ask for from Congressman Jordan
25 immediately. If we get it and there's nothing else that it

1 produces that we want, we'd be done rather quickly, a week,
2 you know, a week or two at most.

3 If we find more -- we're very interested in this
4 memorandum of understanding between these other committees,
5 because we did think there's a chance and a fair chance that
6 it will support our argument that this is a law enforcement
7 effort and not a legislative one, given that you have three
8 committees sort of working together to investigate one
9 particular individual.

10 THE COURT: Let's assume I get that. You get it.

11 MR. CONSOVOY: Right.

12 THE COURT: Can I consider it?

13 MR. CONSOVOY: Yes.

14 THE COURT: In other words, there's been a
15 document that has been voluntarily disclosed by the ranking
16 member. Is that something I could even consider?

17 MR. CONSOVOY: I believe so.

18 I mean, in *Barenblatt*, the Court considered
19 statements that were made at hearings by various members of
20 the committee.

21 THE COURT: Right. This is not intended to be a
22 public memorandum.

23 MR. CONSOVOY: I don't think the -- I don't read
24 any principle in the case law that draws that line, that the
25 intent to make it public is what matters.

1 I imagine that if -- and, you know, if you take
2 some of the cases from the '50s about the subcommittee on
3 un-American activities, that if an open mic had picked up
4 two Congressmen saying at the hearing, Well, yeah, this is
5 an investigation; we're not going to legislate, I don't
6 think --

7 THE COURT: Is that what the memo says?

8 MR. CONSOVOY: We could only hope.

9 But we don't know.

10 And just like Congress looked for things in the
11 legislative arena that takes it up blind alleys, so many
12 parties pursue discovery that may or may not produce helpful
13 information.

14 But what I think our concern was is that, in our
15 view -- and we understand the Court's interest in that
16 because we just haven't had that chance.

17 And if I could just sort of more broadly speak
18 to -- I don't think you'll find the plaintiffs opposed,
19 I hope we didn't come across this way as to expediting the
20 case.

21 We understand what the Supreme Court said in
22 *Eastland*. I think while we're in this spot that we find
23 uncomfortable is because the House could have filed a motion
24 to dismiss and expedited and said, Hey, we'll keep the
25 status quo; and then everything we've said in the complaint

1 would have been accepted as true. And Your Honor could have
2 said, I find it interesting or uninteresting; or I think we
3 have material factual disputes or we don't.

4 They could have filed a motion for summary
5 judgment immediately and sought expedition on that.

6 And we could have come to a stipulated facts or we
7 could have had very limited -- you could have said, Hey, we
8 want very limited discovery, let's do it in a week or two,
9 and let's get these summary judgment motions filed.

10 I think it's the -- and as I read the case law and
11 the notes on Rule 65(a)(2), consolidation is ordinarily when
12 the parties are coming to a preliminary injunction hearing
13 with lots of witnesses, with lots of documents, and if the
14 Court is going to take testimony, we've got everybody here.

15 THE COURT: It's also appropriate where just the
16 opposite is true, which is where, I mean, in fact, the
17 Seventh Circuit case you cited from then Judge Stevens, says
18 consolidation is appropriate where there is no discovery,
19 where there's not discovery to be had, and that's why I
20 compared this to an APA case where we often consolidate
21 under Rule 65 if there's a preliminary injunction.

22 MR. CONSOVOY: I understand and I don't disagree
23 that that was said by then Judge Stevens and also in the
24 notes itself.

25 But it also has to be true that that has to be the

1 rare set of cases as I see it, because almost every
2 First Amendment case is a pure question of law.

3 Yet, as Your Honor knows, if you pull all the
4 First Amendment preliminary injunction cases in this court
5 and the D.C. Circuit, you would pile them up to the ceiling
6 without consolidation. And so something different is going
7 on there, I think, when you consolidate.

8 So I think all we were trying to get across is we
9 didn't really fully brief our legal arguments, and I just
10 think --

11 THE COURT: That raises a separate question, which
12 is that, so far as I can tell, between both parties, you've
13 cited every single relevant case there is on this issue.

14 So I've read them all; I've read your arguments.
15 What more do you think you need to say in writing that
16 hasn't been said already or that you haven't had an
17 opportunity to say today?

18 MR. CONSOVOY: So I appreciate the opportunity to
19 speak today, I think, as you could imagine, any lawyer wants
20 to put his best foot forward in his briefs, and we did feel
21 constrained by -- I'll just be candid, we thought -- we were
22 trying to get a preliminary injunction.

23 THE COURT: I know.

24 MR. CONSOVOY: And the case law says in some of
25 the cases we've cited -- I'm sure Your Honor has read

1 them -- that you would be disserving your client if you
2 showed all of your cards on the merits in that stage when
3 all you have to meet is a "serious questions" standard.

4 And I did not go into the depth on some of the
5 facts of some of these cases.

6 Take *McGrain* for example.

7 THE COURT: I've read those, I've read the facts,
8 I've read the cases, and so I've got them all stacked up
9 here and you can imagine I've read them and are familiar
10 with the facts.

11 Look, there's sort of three discernible bench
12 backstops, it seems to me, in terms of what Congress can do.
13 Can't -- no general authority to investigate into private
14 affairs, you made that argument, can't expose for the sake
15 of exposure, you've made that argument, and you can't
16 encroach on the province of the other two branches, you've
17 made that argument.

18 And you've cited all the cases that stand for each
19 of those propositions. So I'm not saying that you couldn't
20 have written up something more fulsome, but sometimes fewer
21 words are better and you've done an effective job of getting
22 across what you want to in fewer words.

23 MR. CONSOVOY: Fair enough. I won't belabor it.

24 I think what the President is asking for is simply
25 one good shot to write a merits brief.

1 I understand if Your Honor feels differently.

2 The House has not responded, there's been very
3 little briefing on beyond Article I, Section 8.

4 We've wrote a couple paragraphs on *Powell*, we
5 cited the Silberman memo.

6 There has been no real response and Your Honor
7 today walked through each of these statutes and said, Would
8 that one exceed their powers, would this one --

9 THE COURT: Well, I can assure you that my
10 decision isn't going to involve, determine the
11 constitutionality of legislation involving the emoluments
12 clause for example.

13 That's -- there's no case that's going to stand
14 for the proposition that in a vacuum like the one that's
15 been presented here, I need to make major determinations
16 about the constitutionality about potential legislation.
17 There's just no case that stands for that proposition.

18 MR. CONSOVOY: This will be the last thing I say,
19 I promise, Your Honor.

20 I just respectfully disagree.

21 I would urge the Court to take a second look --

22 THE COURT: I'll take a look at it.

23 But I cannot imagine I'm being asked to -- you
24 know, for example, we've now talked about two or three or
25 four potentially constitutional encroachments that you

1 believe any potential legislation might involve.

2 I cannot imagine that I'm supposed to write an
3 opinion, if it ends up in your favor, that knocks down the
4 constitutionality of three or four different possible
5 avenues of legislation that Congress might consider.

6 MR. CONSOVOY: I understand.

7 THE COURT: I just can't imagine that that's what
8 I'm supposed to do.

9 MR. CONSOVOY: I understand the trepidation, but I
10 would ask it the other way: What good is it to us of
11 Congress can't go beyond what legislation to be had if they
12 can simply say, Well, imagine what you will but don't
13 evaluate it because that would be in the abstract.

14 There's nothing that can't do that. There's
15 nothing. Thank you, Your Honor.

16 THE COURT: All right. Thank you, Mr. Consovay.
17 I'll also give you an opportunity for rebuttal, if you wish.

18 MR. CONSOVOY: Thank you, Your Honor.

19 THE COURT: All right, Mr. Letter.

20 MR. LETTER: Thank you very much, Your Honor.

21 Obviously, I am here primarily to answer your
22 questions.

23 What I was planning to do is talk for just a brief
24 time about the theme of my argument and then I was going to
25 march through and respond to points that my friend

1 Mr. Consovsky so eloquently made.

2 But, again, I hope -- my main purpose here is to
3 answer your questions. So I'll start, but anything you want
4 to ask me, please do.

5 THE COURT: You can anticipate I'll interrupt you.

6 MR. LETTER: Excellent. I welcome it.

7 Your Honor, I want to start, as I said, with my
8 basic theme.

9 The point that my friend Mr. Consovsky has
10 emphasized so much today is totally consistent with the
11 views that have been expressed by his client.

12 His client, his main client, President Trump, has
13 taken the position, really, that Congress, and in
14 particular, the House of Representatives, is a nuisance and
15 we're just getting in his way while he's trying to run the
16 country.

17 And the problem with that is, this is a total and
18 basic and fundamental misunderstanding of the system that's
19 set up by the Constitution.

20 THE COURT: So let's talk about how I make this
21 very assessment.

22 I'll confess one of the things that has been
23 frustrating for me is that in nearly every one of these
24 cases you read on the subject, there is some resolution,
25 some statement by an investigating body within Congress as

1 to what the scope and subject matter of the investigation
2 is.

3 There's no such resolution or public statement
4 here, correct, except for in the letters that you've cited?

5 MR. LETTER: That is correct, Your Honor.

6 THE COURT: And so it really does open the door,
7 it seems to me, to the accusation, perhaps valid or not,
8 that this really is sort of an effort to, if not harass the
9 President, but to get into his private affairs, for the
10 political purposes, when there is no clear line of
11 demarcation as to what, in fact, this investigation is
12 about.

13 MR. LETTER: Your Honor, I have several responses
14 to that, and it's the argument that Mr. Consovoy is making
15 on this is absolutely wrong.

16 The main thing I point you to is you've -- you
17 know, you've said you're aware of the cases.

18 By far the most important case here is *McGrain*,
19 because *McGrain* resembles this case so much. It's a
20 unanimous decision by the Supreme Court, it's cited,
21 I think, in every single more modern case.

22 In *McGrain*, Your Honor, they made -- they said,
23 the argument that was made was that the Senate had given no
24 reasons, no reasons.

25 And, in fact, that's why the lower court had

1 struck down the subpoena.

2 And, in fact, tying in very closely with the
3 argument that my friend is making, they said, And besides, a
4 District Court ruled, you're attacking the Attorney General
5 personally. It's so clear that this is what you are doing.

6 THE COURT: I recognize that the Court has said
7 that there's no obligation on the part of Congress to
8 articulate precisely what the subject matter is, and I agree
9 with you, I know that's what they say.

10 MR. LETTER: Yes.

11 THE COURT: On the other hand, when the House
12 Oversight Committee's scope of responsibility is an
13 investigation or has the authority to investigate at any
14 time in any manner, what essentially you've suggested is
15 that your authority is co-extensive with the Constitution
16 itself, it seems to me.

17 MR. LETTER: And the power of the Oversight
18 Committee to do, investigate, is consistent with legislative
19 authority of the House and the whole House, you know the
20 Oversight Committee is very special.

21 THE COURT: Right.

22 MR. LETTER: Right.

23 And Your Honor --

24 THE COURT: And so how will I then -- how do I, in
25 that circumstance, determine whether what you're doing is

1 consistent with the Constitution or not?

2 I mean, there are no lines drawn here in a way
3 that a court ordinarily, it seems to me, can embrace to
4 test, even if it's a very soft test, the validity of what
5 the Oversight Committee is doing.

6 MR. LETTER: Right.

7 And a couple of points in response.

8 First, remember, it's -- as you pointed out, we do
9 have letters here.

10 It's not as if the Oversight Committee has issued
11 a subpoena and then been totally silent, which even then, we
12 would win because the Supreme Court in *McGrain* said, Doesn't
13 matter, you win.

14 Even if we want to get outside that.

15 And I'll get to in a moment Mr. Consovoy's
16 argument that once statements are made, they can't be taken
17 back.

18 THE COURT: They can be?

19 MR. LETTER: I'm sorry?

20 THE COURT: I said, They can be?

21 MR. LETTER: Strike that from the record.

22 THE COURT: Right.

23 MR. LETTER: Your Honor has that power, don't you?

24 So, first of all, several things: One, remember
25 the test the Supreme Court said is, Could it be something

1 going to valid legislation?

2 It's "could" and not "would" and not "is."

3 "Could." So that's one thing.

4 Two is, Chairman Cummings has said some things
5 very clearly. He has made clear that the statements, some
6 of the statements and documents presented by Mr. Cohen show
7 that there may be violations of the Ethics in
8 Government Act. And that's key.

9 By the way, you know, in the briefing,
10 Mr. Consovoy says, Well, Mr. Cohen is a liar. But,
11 remember, Mr. Cohen also presented documents. So even if
12 he's a liar, that's one thing the committee can look at.

13 THE COURT: I'm not --

14 MR LETTER: And one other point, Your Honor, and
15 I think this is a key one.

16 And here, I'm relying on a D.C. Circuit decision
17 that came down just several weeks ago, the *Barker* case.

18 In that decision, the D.C. Circuit twice notes
19 that the counsel for the House, my predecessor, in court
20 explained what a House -- a vaguely worded House rule meant,
21 what it meant. And the D.C. Circuit said, Okay, that is
22 said in court, that's the position of the House.

23 The position of the Oversight Committee is what
24 I am saying, it's what we said in our brief, it's what I'm
25 saying today.

1 The Oversight Committee is looking into the very
2 things that Your Honor mentioned.

3 And no less than what this Court, the
4 D.C. Circuit, did just several week ago, you can take that
5 as that is -- that is the position of the Oversight
6 Committee.

7 We have an obviously legitimate purpose.

8 Now --

9 THE COURT: Can I ask you, because I don't think
10 it's -- well, it wasn't clear to me in your briefs.

11 One is, do you view the law in the way that I do,
12 which is that there is a legislative function that Congress
13 has in terms of its investigations?

14 And that related, although not entirely separate
15 but related to that, is this informing function; that at
16 least as I understand it, or perhaps could be read, I don't
17 need to look at whether there's, in fact, a legislative
18 purpose attached to that.

19 Do you agree that there is such a -- there are --
20 two categories of authority exist? And if so, are you
21 relying on the informing function here?

22 MR LETTER: Your Honor, I do agree that they
23 exist. They interlock very closely, though.

24 THE COURT: Right.

25 MR. LETTER: And I don't want to mislead you; but

1 since you said you've read the opinions, I think it's
2 *Watkins* says -- places some question about whether --

3 THE COURT: Right.

4 MR. LETTER: -- this exists.

5 But, for example, the kinds of things that
6 Congress has looked into over the years, they have looked --
7 9/11 investigation, investigation about what happened with
8 Iraq.

9 As you mentioned, Watergate, Whitewater.

10 Congress obviously serves an extremely important
11 informative function for the American people, especially
12 given the House is the closest part of the Federal
13 Government for the people.

14 THE COURT: So are you relying on that?

15 That's why I asked Mr. Consovoy specifically about
16 the question of whether the President has accurately
17 reported his assets and liabilities on his public disclosure
18 statements.

19 Is that something Congress can investigate? And
20 if it can, does it need a legislative purpose associated
21 with that?

22 Or as seems to be the suggestion in *Watkins*, can
23 that be disclosed for the sake of disclosure because he's
24 the President of the United States and there's an informing
25 function that Congress performs about the President's

1 conduct?

2 MR. LETTER: Your Honor, I'd like to answer that
3 this way: I don't need it, but I think it is also a valid
4 ground to rely on.

5 But we don't need it, because if the President --
6 I don't think I heard Mr. Consovoy say that the President --
7 that the Ethics in Government Act is unconstitutional.

8 And I'm going to mention some other statutes that
9 I think his argument -- I think he's taken on a lot here.
10 I think he's going to have to argue that a whole batch of
11 statutes are unconstitutional.

12 So we know the Ethics in Government Act places
13 certain requirements on the President. He is required to do
14 an annual financial disclosure form that I believe is
15 similar to what you and I both do.

16 THE COURT: Which reminds me, I need to ask for an
17 extension.

18 MR. LETTER: Yes. Thank you. I just got mine.

19 And so he's required to do that.

20 So obviously, it's something that we can look into
21 to see, well, so if a president is ignoring that, should the
22 legislation be changed? Should there maybe be penalties put
23 on it? How should we do this?

24 And with the informing function, if I could just
25 go back to that for a moment, because I think it's a very

1 key question that you've asked, remember that because the
2 President cannot spend any money whatsoever unless it's
3 appropriated by Congress, it's very difficult to think of
4 anything that Congress can't look into because almost
5 everything the Federal Government does requires some money.

6 So the President's the Commander in Chief.

7 Obviously, if he says, We're invading Yemen tomorrow or
8 we're providing all sorts of military aid to the Saudis, if
9 Congress passed a statute saying not a penny shall be spent
10 on those things, I think even Mr. Consovoy would admit the
11 President cannot do it.

12 So appropriations money just covers virtually
13 everything the government does.

14 THE COURT: Right.

15 But we're not anything -- we're not on that.

16 I mean, we're not -- nothing that's being
17 investigated here touches anywhere close to that in terms of
18 the President's expenditures of appropriations.

19 MR. LETTER: That is correct, Your Honor.

20 I was just -- I wanted to make clear just your
21 point about informative is key, but you can probably tie
22 almost anything to -- eventually to appropriations.

23 Now, so let's look at what I think Mr. Consovoy
24 has to argue is unconstitutional.

25 Presidential Records Act. You know, for many,

1 many years, many presidents destroyed all of their records
2 or they selectively gave them out; they selectively handed
3 them to various libraries, but many of them actually totally
4 destroyed them. We learned, American people, Congress
5 learned from President Nixon that that was no good.

6 So now --

7 THE COURT: So how is that relevant here?

8 They're only purely private records that are being
9 requested, right?

10 MR. LETTER: I'm sorry, Your Honor. I'm just
11 pointing out, Mr. Consovoy seems to be arguing that Congress
12 cannot regulate the President. I was responding --

13 THE COURT: I understand.

14 MR. LETTER: -- Oh, yeah? We've done it.

15 The STOCK Act.

16 The STOCK Act, which, again, governs, I'm fairly
17 sure, you and me, and we have to disclose what
18 investments -- when we sell stock, et cetera, that applies
19 to the President.

20 The President, for example, I don't know.

21 Would Mr. Consovoy argue that the President is
22 free to engage in insider trading? Now, maybe he couldn't
23 be prosecuted while he's president -- I'm not sure -- but
24 certainly, I would think that he could be -- if he's
25 engaging in insider trading, he can be criminally prosecuted

1 the moment he's no longer in office.

2 THE COURT: And your view is Congress could
3 investigate that conduct?

4 MR. LETTER: Absolutely. Absolutely, Your Honor.

5 THE COURT: So even if there's not a legislative
6 end to it?

7 MR. LETTER: Again, the problem there is, you're
8 not a prophet, I'm not a prophet. How do we know what the
9 legislative end is going to be? Congress starts out doing
10 an investigation, and we don't know where it's going to go.

11 And if I might, one of the key things -- and I
12 heard what you said, that you were not likely to rule that
13 everything Congress might do here, whether it's
14 constitutional or not.

15 I suggest you couldn't do that because, as I think
16 you well know, the Supreme Court has said a number of times
17 the courts defer to and are very interested in the views of
18 Congress about the constitutionality of something. And
19 that, obviously, weighs very heavily when you're deciding is
20 something constitutional or not.

21 The fact that Congress passed it right away, you
22 know, means there's a big thumb on the scale that it is
23 constitutional.

24 So I don't -- if you -- in advance, I'm not sure
25 how you could possibly decide here that nothing Congress can

1 do from this legislation -- from this investigation would be
2 constitutional.

3 THE COURT: So can I ask you, where are the
4 limits? I'm curious where you think the limits are.

5 I mean, the proposition you've advanced is very
6 broad.

7 MR. LETTER: Yes.

8 THE COURT: So is there anything about the
9 President's private life that you think is off limits from
10 Congress?

11 MR. LETTER: His totally private life?

12 We probably could come up with something, if there
13 was absolutely no way that it impacts anything else.

14 If the President -- well, for example, right now,
15 the parliamentarian, I believe, has determined that Congress
16 cannot subpoena things, a famous case some time ago, I
17 remember, Terry Schiavo, the young women in Florida. And
18 Congress at some point was looking at issuing a subpoena
19 about the -- for the life support device, and apparently
20 that couldn't be done.

21 Could Congress subpoena the President's blood for
22 a blood test?

23 THE COURT: I mean, you know, say, for instance --
24 could you say, Look, I'd like the President's mortgage loan
25 application from 15 years ago. Is there anything that

1 prevents Congress from doing something like that, in your
2 view?

3 MR LETTER: 15 years ago, 30 years ago, you can
4 start making an example, maybe not.

5 But here, remember that the --

6 THE COURT: Right. But I'm just trying to figure
7 out what the limits are.

8 MR. LETTER: Hypothetically, I would definitely
9 agree with Your Honor, I am sure that we can come up with
10 some hypotheticals that you'd say, That's just too far.

11 I want to see the President's diary from when he
12 was 7 years old or she was 12 years old; that would probably
13 stretch my arguments to the breaking point.

14 Fortunately for the House today, we're nowhere
15 even close to that.

16 And by the way --

17 THE COURT: So what standard -- I asked
18 Mr. Consovoy this very question.

19 If I determine that the subject matter that
20 Congress is investigating is one upon which legislation
21 could be had, is there a next question of, are the records
22 being sought in furtherance of that purpose? And if that's
23 a question I'm supposed to ask, what standard am I supposed
24 to use to assess that question?

25 MR. LETTER: As you said, the -- you're -- the

1 Supreme Court cases make clear that your power in this area
2 is limited. And obviously, I say that with all due respect.

3 THE COURT: That's okay.

4 MR. LETTER: As you know, the Supreme Court has
5 said, you can't look at motive. You're not supposed to go
6 line by line looking.

7 This is a very, very broad inquiry. Could it tie
8 in with legislative purposes?

9 And on that, fortunately, my colleague has just
10 reminded me, there's a presumption of regularity that the
11 Supreme Court has emphasized -- I think in *Eastland*, I think
12 it says it a couple times.

13 So if you presume regularity here, they're just --

14 THE COURT: Some of the District Courts have
15 relied on this standard in *McPhaul*, which is that the
16 records are "not plainly incompetent or irrelevant to any
17 lawful purpose in the discharge of its duties."

18 Is that the standard, in your view?

19 MR. LETTER: *McPhaul* is a Supreme Court decision
20 and it said it. So plainly incompetent.

21 There's no way you come anywhere close to meeting
22 that standard here.

23 Remember, we're looking at conflicts of interest.
24 Is the President maybe -- the President has to serve the
25 interests of the American people, not use the

1 Office of the President to benefit financially himself
2 personally.

3 GSA, there are rules. There are things that
4 govern the President's dealings, financial dealings with the
5 government.

6 Again, I hope Mr. Consovoy is not going to argue
7 that that's unconstitutional.

8 So remember, here, he did certain things to try to
9 remove the Trump Hotel, because he couldn't, as President,
10 under the law, have financial, commercial dealings with the
11 U.S. Government, so he sort of shifted some assets.

12 THE COURT: You mean under the lease?

13 MR. LETTER: The lease, right, and his
14 relationships with GSA.

15 So obviously, Congress can look into, did he
16 really take himself out of that transaction? Or is this
17 just President Trump doing business and profiting off of a
18 GSA lease?

19 Obviously, Congress can look into that.

20 And as I said, the Ethics in Government Act,
21 clearly, this is a subject that the Congress can look into.

22 THE COURT: Can I ask you a different question?

23 MR. LETTER: Yes.

24 THE COURT: How does the Speech or Debate Clause
25 fit into this analysis, if at all? You haven't invoked it

1 expressly.

2 *Eastland* is a Speech or Debate Clause case, but
3 you haven't invoked it and I'm wondering why that is. And
4 I'm speculating that perhaps you don't think the committee
5 has the right to invoke the Speech or Debate Clause.

6 MR LETTER: Oh, no. The committee does.

7 THE COURT: It does. Okay.

8 MR. LETTER: In fact, I'm about to invoke it,
9 because Mr. Consovoy was urging you to have a trial. He
10 wants to have discovery of Chairman Cummings, apparently,
11 and wants to --

12 THE COURT: He didn't say that. I think he
13 acknowledged that that wasn't in the offering.

14 MR LETTER: I'm sorry. Maybe I misunderstood.

15 So if Mr. Consovoy is saying --

16 THE COURT: I think he said that you hadn't
17 officially evoked, but I think he assumed that you were
18 going to do that.

19 MR. LETTER: Yes, because if Mr. Consovoy wants to
20 take a deposition of Chairman Cummings, he can't do that.

21 The Speech or Debate Clause is absolutely clear,
22 he cannot do that, that's -- as you know, *Eastland* has a
23 lengthy discussion about this.

24 THE COURT: Right.

25 MR LETTER: We didn't think it was necessary here

1 because we thought that Mr. Consovoy was seeking a win --

2 THE COURT: My question is a little bit different
3 in terms of --

4 MR. LETTER: Okay.

5 THE COURT: -- the question with respect to the
6 validity of the subpoena and whether the Speech or Debate
7 Clause has anything to say about that question.

8 I mean, I recognize that -- *Eastland* was a case
9 involving essentially what was a motion to quash a
10 congressional subpoena. But the action was brought against
11 individual members and, I think, the chief counsel or
12 something like that, and so that's why the Speech or Debate
13 Clause had some relevance there.

14 MR. LETTER: Yes.

15 THE COURT: So I'm wondering why that doesn't have
16 an applicability here, too.

17 MR. LETTER: It has an applicability. It had, but
18 it was mooted.

19 When Mr. Consovoy brought this suit --

20 THE COURT: Okay.

21 MR. LETTER: -- remember, he sued --

22 THE COURT: Right.

23 MR LETTER: -- the chairman and he sued a staffer.

24 We had a very fruitful discussion with
25 Mr. Consovoy and said, You can't do that.

1 But the way this is done properly is, you have
2 sued Mazars, that's appropriate. Now we will intervene on
3 behalf of the committee, and we were authorized by the House
4 to do that.

5 We intervene and the committee then comes in and
6 argues that the subpoena is valid.

7 But, no, President Trump cannot sue Chairman
8 Cummings. He cannot do that.

9 THE COURT: Right.

10 MR. LETTER: I had other points, but you look like
11 you want to ask me another question.

12 THE COURT: I'm trying to remember what I was
13 about to ask you.

14 MR LETTER: Sorry.

15 THE COURT: I know what I was going to ask you.

16 The memo that Mr. Consvoy thinks can help him
17 out, is that something the Oversight Committee is prepared
18 to produce? The memorandum of understanding that I gather
19 exists between the Oversight Committee and some of the other
20 committees?

21 MR. LETTER: I will check that and give you an
22 answer in just a moment.

23 But a couple of things.

24 That memorandum of understanding has nothing to do
25 with Mazars. Mazars isn't mentioned. It has nothing to do

1 with Mazars.

2 And Mr. Consovoy said there's -- in his brief,
3 I think he said there's a memo of understanding with the
4 Financial Services Committee and the Intelligence Committee.
5 There is no memorandum of understanding with the
6 Intelligence Committee.

7 THE COURT: Okay.

8 MR. LETTER: There is a memorandum of
9 understanding with the Financial Services Committee. And as
10 has been pointed out, the minority has that, and --

11 THE COURT: Minority has that memo already?

12 MR. LETTER: Yes.

13 It has nothing to do with Mazars.

14 Would Your Honor give me just 15 seconds to check
15 on this, please?

16 THE COURT: Sure.

17 (Defense counsel conferred off the record.)

18 MR. LETTER: Your Honor, thank you.

19 I was consulting with Ms. Grooms, who's a
20 high-level attorney with the committee.

21 Your Honor, we would be happy to provide it to you
22 under seal, and you can see it has nothing to do with
23 Mazars.

24 One of the reasons I'm reluctant to give it out
25 publicly is that it does apply to a different financial

1 institution that has nothing to do with this case, and we
2 generally do not make -- these kinds of subpoenas are not
3 normally made public.

4 But we are happy to provide it to you Your Honor,
5 under seal, and you can see it has nothing to do with
6 Mazars, and you'll see it has --

7 THE COURT: Just to be clear, we're talking about
8 the same thing.

9 You mentioned a subpoena to another financial
10 institution. That's not what I heard Mr. Consovoy asking
11 for. He's asking for a memorandum of understanding that may
12 or may not exist.

13 MR. LETTER: Right.

14 The memorandum of understanding is about sharing
15 information with a different committee from a different
16 subpoena.

17 THE COURT: From a different subpoena.

18 Understood. Okay.

19 MR. LETTER: Right.

20 THE COURT: I see.

21 MR. LETTER: All right?

22 So if you're right, we'll wait for your direction.

23 THE COURT: Okay.

24 MR. LETTER: But we will be happy to provide that
25 to you.

1 So if I'm just checking my list of points here, if
2 Your Honor will give me a moment.

3 Oh, Mr. Consovoy said, Once something is said, we
4 can't take it back.

5 I mean, *McGrain*, again, it talks about how the
6 lower court ruled that the subpoena was invalid because it
7 was attacking the Attorney General Daugherty, and the
8 Supreme Court obviously said, We don't care, and so I don't
9 know if you want to say that's taking things back or not.

10 And it's a little bit ironic for this argument to
11 be made here, because not that long ago in the
12 Supreme Court, a case involving a travel ban, there were
13 also -- the plaintiffs there made all sorts of arguments
14 based on things that candidate Trump and President Trump had
15 said that they thought went to motive, and the Supreme Court
16 said, We're not going to look at that, we're going to look
17 at what he officially has done, and we're showing you what
18 the committee here is officially doing.

19 And so other statements maybe, I don't know, maybe
20 they're interesting. They're white noise maybe.

21 But *McGrain* makes absolutely clear that's not the
22 issue.

23 THE COURT: Can I ask you two process questions?

24 MR. LETTER: Yes.

25 THE COURT: Or one that's not really a process

1 question.

2 The first is, in terms of assurances of
3 confidentiality, were these records to be produced?

4 I know the committee's rules or the House rules
5 provide that documents produced pursuant to a subpoena
6 issued by the House Oversight Committee are to be treated
7 confidentially.

8 Are there any other further assurances that can be
9 given in terms of the treatment of those records and that
10 they not be spilled out into the public?

11 MR. LETTER: No, Your Honor.

12 The rules provide a process. The Oversight
13 Committee does receive all sorts of confidential
14 information; however, it is within the power of the
15 Oversight Committee to determine whether or not they will
16 disclose records and other Members of Congress have access
17 to records that the Oversight Committee gathers.

18 As we said, we will consult with the target of a
19 subpoena; and, in this case, if President Trump wants to be
20 heard on whether certain things should or shouldn't be
21 disclosed, we would definitely, out of respect for the
22 Presidency, we would definitely listen.

23 But, no, the Oversight Committee, as part of the
24 powers of Congress, its informing powers, we cannot pledge
25 that these will be kept secret.

1 THE COURT: Okay.

2 The other question is a process question in terms
3 of if -- I mean, I do intend to consolidate, timing is a
4 separate question which we'll address in a moment.

5 But if I am consolidating, how do you propose I
6 treat the pleadings before me as either a motion to dismiss,
7 motion -- cross-motions for summary judgment, what is your
8 view on that?

9 MR. LETTER: Your Honor, we believe your order was
10 absolutely correct. And the main reason is: This is
11 clearly -- there is only a legal issue here; there's no
12 discovery that is either possible or relevant.

13 As you have pointed out, the Supreme Court has
14 given you limited authority to look into what Congress is
15 doing, you can't look at motive, you're not looking line by
16 line, et cetera.

17 You know now what the record is, what the House is
18 saying, what the committee is saying its purposes are, and
19 so it's for you then to make a legal judgment, just like the
20 Supreme Court did, in *McGrain*, about whether that is
21 consistent with the Constitution.

22 So you could frame that as, we think you have two
23 options: One is, stick to the order that you issued, which
24 we think is absolutely correct; another is, if for any
25 reason at all that's -- you want to get rid of that order,

1 you can because -- and I think we cited this opinion, the
2 Supreme Court decision, for example, in *Munaf*, M-u-n-a-f,
3 the Supreme Court there was dealing with an appeal of a
4 preliminary injunction, and the Court said, There's no
5 chance of success on the merits, and, therefore, it
6 dismissed.

7 Here, I hope that I've today and in our brief
8 pointed out to you -- and, again, actually you don't need us
9 to point it out, you've read the cases, the Supreme Court
10 cases -- President Trump has no chance of success here on
11 the merits of this claim. This claim is so far outside what
12 the Supreme Court has ruled that there is no chance of
13 success.

14 And so you could keep it at the
15 preliminary-injunction stage if you wish, and under *Munaf*,
16 it's not the first and only case that has done that.

17 THE COURT: But if I did consolidate on the
18 merits, and you haven't answered, for example -- and so
19 it would be a little odd, I guess, to treat it as a motion
20 for summary judgment, or maybe not, or a motion for judgment
21 on the pleadings.

22 MR. LETTER: Your Honor, I'd be happy to do that
23 orally right now: We would move for summary judgment based
24 on the pleadings because this is a pure legal issue.

25 There are facts behind things, but there is no

1 legitimate dispute about the facts here.

2 We're not saying that Congressman Cummings didn't
3 say the things that he's quoted as saying, all of that just
4 is obviously irrelevant to the claim.

5 So -- and, Your Honor, we are -- I thank
6 Mr. Consovoy because we were able to work out with him a
7 highly expedited briefings and argument schedule with you,
8 and thank you also.

9 We are so cognizant of what has happened in prior
10 cases where there's a dispute between the Executive Branch
11 and the House, Legislative Branch, and cases have dragged
12 on, and *Eastland* is one of the ones that says this.

13 THE COURT: Right.

14 MR. LETTER: The House is, this Congress is
15 limited in time.

16 There's obviously going to be appeals here.
17 We just do not want there to be any lag in time, and so we
18 rushed and we briefed this case, and we think that it should
19 be decided quickly.

20 As I think you're aware, there's another case
21 involving a different subpoena that will be at a hearing in
22 front of Judge Ramos up in New York.

23 THE COURT: That's right.

24 MR. LETTER: Next week.

25 THE COURT: The 22nd, I think.

1 MR. LETTER: Right.

2 And we just think --

3 THE COURT: Is that when the hearing is, on the
4 22nd?

5 Is that when your hearing is in front of Judge
6 Ramos?

7 MR. LETTER: Yes. That's exactly right,
8 Your Honor.

9 Any delay here is -- undermines the House's
10 ability to do what the Constitution allows it to do.

11 One other point to make, I don't think it's been
12 discussed yet, the *Packwood* case, which is a District Court
13 decision from this Court some time ago. And there, the
14 Court said, you know, the target of a subpoena that Congress
15 has issued doesn't get to say, Well, the scope should be
16 this or that. That's for Congress and Congress alone to do.

17 And the last point, I don't -- you know,
18 Mr. Consovoy said there are more -- possibly more arguments
19 he would want to make. I respect that, but we're having a
20 hearing now. Your Honor is being extremely kind in the
21 amount of time you're letting us talk. I suggest that
22 Mr. Consovoy can raise any points he wants now.

23 And other than that, you've said you've got the
24 Supreme Court, the D.C. Circuit, the decisions, like
25 Judge Leon's decision in the *Bean* case. You've got them

1 all. And so further briefing just seems totally
2 unnecessary. I think courts often can and do decide cases
3 without any briefing at all from parties.

4 And the -- oh, the last thing I would like to just
5 say is, I know Mr. Consovoy has said, Well, the irreparable
6 injury.

7 Remember, the Supreme Court did say in *Winter* and
8 in *Munaf*, the key thing is, if you have no chance, if you
9 have not shown any kind of likelihood of success on the
10 merits, the other factors do drop out. And the
11 Supreme Court has said that and has, in *Munaf*, applied that
12 standard.

13 Unless the Court has anything further, may I just
14 consult?

15 THE COURT: Yes. Sure.

16 MR. LETTER: Thank you very much, Your Honor.

17 THE COURT: Thank you, Mr. Letter.

18 Mr. Consovoy.

19 MR. CONSOVOY: Thank you, Your Honor.

20 THE COURT: Thank you.

21 MR. CONSOVOY: I'll sort of take them as they were
22 brought up.

23 But the one I would like to start with is the
24 committee's statement of its scope of its authority.

25 What I heard today is the answer is unbridled.

1 I think I heard maybe they can't get the President's blood
2 and maybe they can't get his diary from when he was 12, but
3 only maybe.

4 It's unfathomable that that is the scope of
5 Congress' authority. That's just simply unimaginable.

6 And Your Honor asked whether Oversight or
7 information for the sake of Oversight information is
8 different or separate, head of authority than legislation.

9 I can only quote from *Watkins* at page 206.

10 "Plainly, these committees are restricted to the
11 missions delegated to them; i.e., to acquire certain data to
12 be used by the House or Senate in coping with a problem that
13 falls within its legislative sphere."

14 There is no separate and part.

15 And, Your Honor, you asked about Speech or Debate.

16 The reason why, as I understand it -- maybe I was
17 wrong -- the House has not invoked the Speech or Debate is
18 because if *Eastland* makes one thing clear, it's that whether
19 there's a legitimate legislative purpose is antecedent to
20 Speech or Debate.

21 First Amendment, these things come up on the other
22 side.

23 And as we noted in Footnote 14 of *Eastland*, the
24 posture of this case does somewhat constrain the arguments
25 we can make.

1 We may end up appearing in other such matters,
2 Your Honor, before you or other courts.

3 And if they're in a different posture where we
4 are, the actual party and not having sought a third party,
5 there are a wide array of First Amendment arguments that can
6 be raised in that posture, and Speech or Debate won't
7 necessarily cut them off.

8 Here, the Court sort of reached what I would think
9 is an effective compromise position, which is, we can
10 offensively sue even, though it's not -- the subpoena is not
11 directed to us, but Congress sought to have a legitimate
12 legislative purpose, and then the brick wall comes up after
13 that.

14 And our arguments are predicated on legitimate
15 legislative purpose. We have not sought to invade Speech or
16 Debate.

17 On the request for the memorandum of
18 understanding, it's always nice when the other party tells
19 you that you don't want to see what they have. Don't worry.
20 It's not a big deal.

21 I hope you would respect my "trust but verify"
22 position on this.

23 I don't think it's inappropriate to submit it
24 under seal. If the committee wants to waive Speech or
25 Debate and share it, it should be shared. If redactions are

1 appropriate, obviously the Court can take that up.

2 But we've asked to go get it from the minority.

3 And the minority has the right to not raise its
4 own Speech or Debate, as Mr. Letter said, about various
5 Congresspeople being able to expose things. And so, too,
6 may Congressman Jordan share any materials that he they
7 have.

8 And whether or not these specific memorandums
9 deals with Mazars is not really the point.

10 What we're trying to discern is whether there is a
11 coordinated effort to engage in, effectively, a law
12 enforcement review of the President's behavior and that this
13 type of coordination is emblematic of that type of
14 operation.

15 And maybe it does or maybe it doesn't. We'd like
16 to know.

17 THE COURT: You'd like to know.

18 MR. CONSOVOY: I know Your Honor is hesitant to
19 get into -- I think I've not convinced Your Honor that there
20 is -- you should evaluate these things on a constitutional
21 level.

22 I think -- I don't know if there's an effective
23 response to how that couldn't yield unbridled power without
24 looking at it. But I don't think we're entitled in the
25 abstract here.

1 HR1 is one statute that Congress has pointed to.
2 It would require the President to put his funds in a blind
3 trust. I think that is flagrantly unconstitutional under
4 *Powell v. McCormack*.

5 And at a minimum, to the extent the Court is going
6 to address their additional arguments, I think it has to at
7 least deal with that one.

8 On *McGrain* -- and this is why we hoped we'd have
9 more briefing -- the case that the committee thinks is best
10 for them we think is terrific for us.

11 At the end of the opinion -- and this is on
12 page 180, after ruling against the challenger, the Court
13 said, "It is not as if an inadmissible or unlawful object
14 were affirmatively and definitively avowed," meaning,
15 Congress didn't say the thing they weren't supposed to say
16 that proved they were doing the unlawful thing.

17 That's different from this case. If you look
18 at -- Your Honor started with me on the chairman's letter,
19 and we worked backwards, but we never got to the beginning.

20 And in the beginning, what the chairman says is,
21 We think there's something illegal going on here, and we'd
22 like to find out.

23 That's precisely what -- if there was any line on
24 law enforcement, that has to cross it.

25 And they've emphasized the ethics disclosures.

1 Those go back two years.

2 This subpoena goes back -- and I'm not asking the
3 Court to partially invalidate the subpoena. This goes back
4 to 2011; and with respect to paragraph 2, says, Without
5 regard to time.

6 So I think the Court has to take the
7 measurements --

8 THE COURT: It has to do with the retainer
9 letters.

10 MR. CONSOVOY: It does. It does.

11 Which I don't understand how retainer letters are
12 about legislation, but I understand that I'm probably
13 crossing a red line with the Court on that.

14 But I do think the Court has to at least think to
15 itself about, at a minimum, you can look at the subpoena and
16 say, Does this look like law enforcement, or does this look
17 like legislation?

18 You asked about what the test would be for
19 determining, effectively, relevance.

20 I think the pertinency principle that comes out of
21 *Watkins* and other cases is the right line.

22 And the Court will have to make an assessment as
23 to whether whatever conjured-up possible legislation that
24 might be relevant here beyond those stated, you know, why
25 would these records going all the way back to 2011 and all

1 the way back to forever with respect to some of them have --
2 be pertinent to legislation?

3 And my point about the Ethics in Government Act --
4 and this is where we started -- is not necessarily that
5 every statute that ever regulates the President is
6 unconstitutional. I think that most of the things that the
7 chairman has talked about are.

8 And we're taking our cue from the chairman. He
9 talked about these blind trusts and things like that, and we
10 think those are pretty easy constitutional calls.

11 But as we talked about earlier in cases like
12 *Quinn*, what you can't do is say, We want to investigate this
13 particular individual; and if we find something bad, we may
14 take remedial legislative steps.

15 That is not permissible.

16 And what we were saying about the
17 Ethics in Government Act stuff in particular is, that's
18 exactly what this looks like to us. Let's look to see
19 whether they're inaccurate. And maybe if we found that the
20 President did something inaccurate, we will somehow, some
21 way amend, and we think it's that line that it's crossing.

22 *Packwood*, we think, has marginal relevance at
23 best. It was an internal issue with respect to a member of
24 the Senate.

25 And the rules are quite different there.

1 That, as Your Honor knows from the history that we
2 were only able to get to in a footnote, that's how Congress'
3 investigative powers for coercive subpoenas began.

4 And it was only far more recently, starting with
5 *Kilbourn* 100 years later, that the courts ever even ventured
6 into this area of Congress issuing testimonial subpoenas.
7 And then it took another, I don't know, 60 or 70 years to
8 get into document subpoenas.

9 And so lastly on the process, Your Honor, the
10 Court has asked, What is the mechanism by which to
11 consolidate? And I think that raises some of the concerns
12 we've had.

13 If it's --

14 THE COURT: Well, the question is different. Not
15 the mechanism for consolidation. What standard to apply.

16 MR. CONSOVOY: Right.

17 So if it's judgment on the pleadings, then we have
18 to figure out how to get our evidence that you asked us to
19 supplement into the record.

20 If it's summary judgment, we don't know what facts
21 have been agreed to or what haven't.

22 And if it's motion to dismiss, all of our facts
23 and evidence must be taken as true.

24 So as I understood Rule 65(a)(2), it's literally
25 to consolidate into a trial.

1 And then we'd have to -- it's a bench trial. And
2 so we'd have to figure out what evidence needs to be
3 submitted.

4 Are there -- I assume there are no hearsay
5 objections to all of the evidence we've submitted; I haven't
6 heard any.

7 But all that has to come out in the wash before we
8 can figure out what the nature of the consolidation is.

9 And I'm just -- I'm not trying -- again, we would
10 do this on whatever pace the Court says, but I would be
11 remiss if I didn't point out these potential obstacles.

12 THE COURT: Okay.

13 MR. CONSOVOY: Okay.

14 THE COURT: Okay. Thank you, Mr. Consovoy.

15 Mr. Letter, did you want to --

16 MR. LETTER: May I be heard on one point,
17 Your Honor?

18 THE COURT: Sure.

19 MR. LETTER: Thank you very much.

20 And if Mr. Consovoy should be allowed to rebut
21 what I'm about to say, that's fine with me.

22 Mr. Consovoy, I think, is making an argument that
23 is very, very broad by saying, If Congress is looking into
24 whether the law has been violated, that's law enforcement.
25 That is not correct at all.

1 And, again, *McGrain*, what the Senate there wanted
2 to do was look into whether the Attorney General and his
3 assistants were performing or neglecting their duties in
4 failing to prosecute, et cetera. So clearly, they were
5 looking into law enforcement.

6 But Congress is not trying to send President Trump
7 to jail; we're not prosecuting anybody.

8 But that still means we can look into whether
9 Watergate, et cetera, whether somebody is violating the law.
10 Those are two.

11 THE COURT: How far does that go?

12 It did stand out to me, and I meant to ask you
13 this, that Chairman Cummings' very first rationale offered
14 for the subpoena is to determine whether the President may
15 have engaged in illegal conduct before his tenure in office,
16 before his tenure in office.

17 This is not an impeachment proceeding. So what's
18 the relevance of these records? Or what the basis to
19 investigate illegal conduct before his tenure in office?

20 MR LETTER: Because, Your Honor, Mr. Trump is a
21 very big businessman, and so there are all sorts of
22 activities that -- financial activities that continue.

23 It's not as if something -- let's say he committed
24 bank fraud, lying in order to get a loan from a particular
25 bank.

1 Then the question is, all right, having done that,
2 would that -- does that maybe place him in a situation where
3 he then has conflicts of interest? Is he maybe beholden to
4 foreign governments who can then exercise control over him
5 because they also know he has violated the law?

6 Clearly, this is highly relevant with somebody
7 like Mr. Trump, who has business dealings that extend over a
8 lengthy period and continuing business relationships.

9 President Trump has conceded, I believe, that,
10 yes, he was trying to get a hotel in Moscow; and I think he
11 has said, had he not been elected president, he would have
12 pushed that.

13 Well, let's suppose he had done illegal things in
14 trying to get that loan, that hotel in Moscow. It may very
15 well be that the Russians know that; it may be that banks
16 know that; it may be that the Russian oligarchs know that.

17 We need to know that. Therefore, the
18 Committee on Oversight and other committees need to know
19 that, because we need to know: Is the President of the
20 United States beholden to foreign interests who can hold
21 certain things over his head?

22 These are obviously totally legitimate things for
23 Congress to look into.

24 THE COURT: Thank you, Mr. Letter.

25 MR. LETTER: Thank you, Your Honor.

1 MR. CONSOVOY: One point.

2 THE COURT: Very quickly, yes.

3 MR. CONSOVOY: I apologize.

4 THE COURT: That's okay.

5 MR. CONSOVOY: On the point about *McGrain*, I think
6 Your Honor answered Mr. Letter's question earlier: That's
7 about an agency.

8 The issues are different with an agency. Congress
9 has powers of oversight that are unique with the agency
10 because they create the agencies. And so fraud, corruption,
11 abuse, which was the issue with the Attorney General and the
12 enforcement of the antitrust laws in *McGrain* is just a
13 different situation than we're confronting here.

14 And on -- I think it's, if I've heard anything
15 from my friend today, is this isn't about legislation, this
16 is about the House being dissatisfied with the President and
17 wanting to prove, through any means possible, that he's done
18 things wrong, and that is not a legitimate legislative
19 purpose.

20 Thank you.

21 THE COURT: All right. Thank you, Mr. Consovoy.

22 Okay. So here's how I think we'll proceed.

23 What I'll do is I'll leave the record open until
24 the 18th, and either side can submit any further evidence
25 you wish to submit by the 18th.

1 And if the House wishes to submit something under
2 seal, I'll take a look at it. If I think it's something
3 that ought to be disclosed to the other side, I'll at least
4 raise that with you before I do something like that.

5 So I'll ask you all to submit that no later than
6 the 16th to chambers so I can at least make that assessment.
7 And so at that point, I think I will consider the matter
8 submitted and I won't accept any further briefing.

9 I do think -- just so the record's clear, I think
10 this has been fully, exhaustively, both in writing and
11 today, argued.

12 There haven't been any arguments raised today by
13 plaintiffs' counsel that aren't already reflected in the
14 briefs. It's ably done, both orally and written -- in
15 written form.

16 So to the extent that there's a concern that the
17 President hasn't had an opportunity to be heard, I think
18 that's been laid to rest.

19 And as I said, I'll leave the record open until
20 Friday to submit any additional information.

21 And just to be clear, I don't think any discovery
22 is to be had in this case based upon the Speech or Debate
23 Clause that's been invoked.

24 And to the extent that there's anything publicly
25 available, I assume you'll put it before me by Friday.

1 MR. CONSOVOY: Can I ask two questions,
2 Your Honor?

3 THE COURT: Of course.

4 MR. CONSOVOY: I don't want to do anything wrong.
5 We are permitted to reach out to the minority of the
6 Committee and seek anything we'd like to submit from them?

7 THE COURT: I'm not putting any limitations to
8 behoove you trying to obtain information.

9 You figure out what sources are available and make
10 your record.

11 I mean, you've alluded to getting statements from
12 Mazars. If you think you can do that, you've got a few days
13 to do that.

14 MR. CONSOVOY: Okay.

15 And lastly, since this may be the last time we see
16 you before a judgment is rendered, I would like to -- the
17 subpoena becomes effective seven days after, I assume, now
18 your opinion on the merits because you've consolidated.

19 We hope we win, as all parties do. But if we
20 don't, we would ask the Court to administratively stay the
21 judgment.

22 As Mr. Letter noted, there will be appeals here.
23 We will be seeking, if we are in that position, a stay
24 pending appeal.

25 And so we'd ask at least for time for -- we'd do

1 it rather quickly, but seven days is awfully fast. And so
2 obviously, the whole premise of the injunction, the
3 injunctive phase of this was to --

4 THE COURT: Are you asking me to essentially stay
5 the seven days, or are you asking me to consider that in the
6 event and in conjunction if I rule against you?

7 In other words, I know what the standards are;
8 I don't know that you need to repeat that in a pleading.
9 In fact, it's the same standard that you've --

10 MR. CONSOVOY: If the Court doesn't think further
11 briefing is necessary -- we haven't seen your opinion, so we
12 don't know what you'll say. If we win, none of this
13 matters. If we lose, it would be the same standard. You've
14 noted that in opinions yourself.

15 So I guess I would leave it to the Court. We
16 don't want irreparable injury to occur while we pursue our
17 appeals.

18 THE COURT: Understood.

19 MR. CONSOVOY: Yes. Thank you.

20 THE COURT: Well, let's put it this way: If you
21 do not prevail, I'll make clear how I intend to proceed from
22 that point in terms of seeking a stay pending appeal.

23 MR. CONSOVOY: Thank you, Your Honor.

24 THE COURT: Mr. Letters?

25 MR LETTER: May I just be heard very briefly on

1 that point?

2 THE COURT: Sure.

3 I suspect your position is that there's no
4 likelihood of success; and, therefore, I should deny any
5 stay pending appeal.

6 MR. LETTER: Your Honor, I did want to say one
7 thing.

8 If you do end up considering a stay pending
9 appeal, I believe you have the authority to say that given
10 the need for expedition here, you could make it conditional.

11 You could set -- we think you shouldn't issue any.
12 But you could say any stay pending appeal would be
13 conditioned on the plaintiff appealing within X number of
14 days and seeking extreme expedition in the Court of Appeals.

15 So, again, we don't think you should issue any
16 stay; but if you're thinking about it, please keep that
17 under consideration.

18 Thank you, Your Honor.

19 THE COURT: Thank you. Sure.

20 Counsel, thank you, all, very much for your
21 arguments today. A lot to think about. And I'll get back
22 to you as soon as I can.

23 Thanks, everyone. Don't wait for me.

24 DEPUTY CLERK: The Court stands adjourned.

25 (Proceedings concluded at 12:28 p.m.)

C E R T I F I C A T E

I, William P. Zaremba, RMR, CRR, certify that the foregoing is a correct transcript from the record of proceedings in the above-titled matter.

Date: May 14, 2019_____

/S/ William P. Zaremba_____

William P. Zaremba, RMR, CRR

	DEPUTY CLERK: [3] 3/1 3/5 79/23 MR LETTER: [10] 42/13 43/21 50/2 53/5 53/13 53/24 54/22 55/13 73/19 78/24 MR. BERNSTEIN: [3] 3/21 3/24 4/2 MR. CONSOVOY: [80] 3/11 6/1 6/4 6/14 7/14 7/25 8/24 9/3 9/17 10/1 10/18 10/20 11/10 11/19 11/22 12/25 13/16 13/21 14/2 14/24 15/11 15/14 15/24 16/5 16/10 16/16 17/1 17/25 18/15 19/8 19/15 19/22 21/7 22/10 22/13 22/17 22/21 23/1 23/8 24/14 26/3 26/19 28/4 28/6 28/12 28/15 28/24 29/7 29/21 30/2 30/16 30/22 31/10 31/12 31/16 31/22 32/7 33/21 34/17 34/23 35/22 36/17 37/5 37/8 37/17 64/18 64/20 67/17 69/9 71/15 72/12 74/25 75/2 75/4 76/25 77/3 77/13 78/9 78/18 78/22 MR. LETTER: [57] 4/4 37/19 38/5 39/4 39/12 40/9 40/16 40/21 41/5 41/18 41/20 41/22 43/24 44/3 45/1 45/17 46/18 47/9 47/13 48/3 48/6 49/6 49/10 50/7 50/24 51/3 51/18 52/12 52/22 53/7 53/18 54/3 54/13 54/16 54/20 55/9 55/20 56/7 56/11 56/17 57/12 57/18 57/20 57/23 58/23 59/10 60/8 61/21 62/13 62/23 62/25 63/6 64/15 72/15 72/18 74/24 79/5 MR. PASSANTINO: [1] 3/16 THE COURT: [151] ' '50s [1] 32/2 / /S [1] 80/7 1 100 [1] 71/5 1000 [1] 1/20 10020 [1] 2/3 11 [1] 44/7 1136 [2] 1/5 3/7 11:00 [1] 1/6 12 [1] 65/2 12 years old [1] 50/12 1271 [1] 2/3 12:28 [1] 79/25 12th [1] 7/2 14 [3] 1/6 65/23 80/7 15 [3] 49/25 50/3 56/14 16th [1] 76/6 180 [1] 68/12 1880 [2] 22/9 22/12 18th [2] 75/24 75/25 19-1136 [1] 1/5 2 20 [1] 19/22 20001 [1] 2/18 20024 [1] 1/21 2011 [3] 26/14 69/4 69/25 2013 [1] 26/14 2019 [2] 1/6 80/7 202 [3] 1/22 2/11 2/19 205 [1] 20/4 20515 [1] 2/10 206 [1] 65/9 212 [1] 2/4 219 [1] 2/9 22201 [1] 1/16 225-9700 [1] 2/11 22nd [2] 62/25 63/4 243-9423 [1] 1/16 26 [2] 29/11 29/24 3 30 [1] 50/3 3033 [1] 1/15 3249 [1] 2/19 333 [1] 2/17 354-3249 [1] 2/19 4 400 [1] 1/21 5 5511 [1] 2/4 6 60 [1] 71/7 65 [3] 33/11 33/21 71/24 6511 [1] 2/18 7 7 years old [1] 50/12 70 [1] 71/7 700 [1] 1/15 703 [1] 1/16 747-9582 [1] 1/22 8 885-5511 [1] 2/4 9 9/11 [1] 44/7 9423 [1] 1/16 9582 [1] 1/22 9700 [1] 2/11 A a.m [1] 1/6 ability [5] 9/17 17/24 20/11 27/25 63/10 able [3] 62/6 67/5 71/2 ably [1] 76/14 about [73] 4/13 4/16 6/10 6/12 6/23 7/5 8/8 8/12 9/12 9/22 11/15 13/10 14/7 14/19 14/20 16/22 17/13 17/15 17/16 17/21 19/22 20/2 20/3 21/4 21/5 22/17 22/19 25/8 25/12 25/14 27/21 30/11 32/2 36/16 36/16 36/24 37/24 38/20 39/12 44/2 44/7 44/15 44/25 46/21 48/18 49/8 49/19 53/8 53/23 54/7 55/13 57/7 57/14 58/5 60/20 62/1 65/15 67/4 69/12 69/15 69/18 70/3 70/7 70/9 70/11 70/16 72/21 75/5 75/7 75/15 75/16 79/16 79/21 79/22 79/24 79/25 80/3 80/4 80/5 80/6 80/7 80/8 80/9 80/10 80/11 80/12 80/13 80/14 80/15 80/16 80/17 80/18 80/19 80/20 80/21 80/22 80/23 80/24 80/25 80/26 80/27 80/28 80/29 80/30 80/31 80/32 80/33 80/34 80/35 80/36 80/37 80/38 80/39 80/40 80/41 80/42 80/43 80/44 80/45 80/46 80/47 80/48 80/49 80/50 80/51 80/52 80/53 80/54 80/55 80/56 80/57 80/58 80/59 80/60 80/61 80/62 80/63 80/64 80/65 80/66 80/67 80/68 80/69 80/70 80/71 80/72 80/73 80/74 80/75 80/76 80/77 80/78 80/79 80/80 80/81 80/82 80/83 80/84 80/85 80/86 80/87 80/88 80/89 80/90 80/91 80/92 80/93 80/94 80/95 80/96 80/97 80/98 80/99 80/100 80/101 80/102 80/103 80/104 80/105 80/106 80/107 80/108 80/109 80/10 80/110 80/111 80/112 80/113 80/114 80/115 80/116 80/117 80/118 80/119 80/120 80/121 80/122 80/123 80/124 80/125 80/126 80/127 80/128 80/129 80/130 80/131 80/132 80/133 80/134 80/135 80/136 80/137 80/138 80/139 80/140 80/141 80/142 80/143 80/144 80/145 80/146 80/147 80/148 80/149 80/150 80/151 80/152 80/153 80/154 80/155 80/156 80/157 80/158 80/159 80/160 80/161 80/162 80/163 80/164 80/165 80/166 80/167 80/168 80/169 80/170 80/171 80/172 80/173 80/174 80/175 80/176 80/177 80/178 80/179 80/180 80/181 80/182 80/183 80/184 80/185 80/186 80/187 80/188 80/189 80/190 80/191 80/192 80/193 80/194 80/195 80/196 80/197 80/198 80/199 80/200 80/201 80/202 80/203 80/204 80/205 80/206 80/207 80/208 80/209 80/210 80/211 80/212 80/213 80/214 80/215 80/216 80/217 80/218 80/219 80/220 80/221 80/222 80/223 80/224 80/225 80/226 80/227 80/228 80/229 80/230 80/231 80/232 80/233 80/234 80/235 80/236 80/237 80/238 80/239 80/240 80/241 80/242 80/243 80/244 80/245 80/246 80/247 80/248 80/249 80/250 80/251 80/252 80/253 80/254 80/255 80/256 80/257 80/258 80/259 80/260 80/261 80/262 80/263 80/264 80/265 80/266 80/267 80/268 80/269 80/270 80/271 80/272 80/273 80/274 80/275 80/276 80/277 80/278 80/279 80/280 80/281 80/282 80/283 80/284 80/285 80/286 80/287 80/288
--	--

A	apply [6] 10/11 19/15 19/16 20/3 56/25 71/15 applying [2] 26/11 26/18 appreciate [1] 34/18 approach [1] 3/10 appropriate [5] 29/14 33/15 33/18 55/2 67/1 appropriated [1] 46/3 appropriations [3] 46/12 46/18 46/22 approve [2] 14/23 14/23 April [1] 7/2 are [69] 3/14 4/15 4/22 4/22 8/24 9/8 13/11 18/4 18/19 18/19 19/16 23/4 23/6 23/7 23/25 24/5 24/15 24/16 26/1 33/12 35/9 35/21 40/5 41/2 41/16 43/19 43/20 44/14 45/11 47/8 48/17 49/3 49/4 50/7 50/21 51/16 52/3 52/3 57/2 57/4 59/6 59/8 60/18 61/25 62/5 62/9 63/18 65/10 66/4 66/5 66/14 66/25 69/11 70/7 70/10 70/25 72/4 72/4 73/10 73/21 74/22 75/8 75/9 77/5 77/9 77/23 78/4 78/5 78/7 area [4] 20/18 25/13 51/1 71/6 areas [1] 19/7 aren't [2] 24/4 76/13 arena [2] 27/10 32/11 argue [4] 45/10 46/24 47/21 52/6 argued [2] 13/13 76/11 argues [1] 55/6 arguing [1] 47/11 argument [15] 1/9 6/14 31/6 35/14 35/15 35/17 37/24 39/14 39/23 40/3 41/16 45/9 58/10 62/7 72/22 arguments [12] 28/1 34/9 34/14 50/13 58/13 63/18 65/24 66/5 66/14 68/6 76/12 79/21 arises [1] 19/13 Arlington [1] 1/16 around [1] 15/3 array [1] 66/5 Article [2] 6/24 36/3 Article I [1] 36/3 articulate [1] 40/8 as [69] 6/16 7/4 8/2 8/3 10/7 10/16 13/13 16/3 16/4 16/14 19/8 20/20 20/21 20/24 21/6 22/24 23/2 24/12 24/17 25/1 26/1 27/23 32/19 33/1 33/10 34/1 34/3 34/12 34/19 38/7 38/25 39/11 41/8 41/10 43/5 43/16	44/9 44/22 48/15 50/25 51/4 52/9 52/20 53/22 56/9 59/18 59/23 60/6 60/13 60/22 61/19 62/3 62/20 64/21 65/16 65/23 67/4 68/13 69/22 70/11 71/1 71/23 71/24 73/23 76/19 77/19 77/22 79/22 79/22 aside [1] 21/19 ask [22] 17/21 22/7 27/8 30/7 30/23 30/24 37/10 38/4 43/9 45/16 49/3 50/23 52/22 55/11 55/13 55/15 58/23 73/12 76/5 77/1 77/20 77/25 asked [12] 5/12 29/1 36/23 44/15 46/1 50/17 65/6 65/15 67/2 69/18 71/10 71/18 asking [15] 4/2 9/21 15/4 21/3 24/4 24/17 26/6 26/13 26/23 35/24 57/10 57/11 69/2 78/4 78/5 aspects [1] 24/24 assess [1] 50/24 assessment [4] 26/1 38/21 69/22 76/6 assets [3] 17/16 44/17 52/11 assistants [1] 73/3 associated [1] 44/20 assume [5] 21/20 31/10 72/4 76/25 77/17 assumed [1] 53/17 assurances [2] 59/2 59/8 assure [1] 36/9 attached [1] 43/18 attacking [2] 40/4 58/7 attendant [1] 7/24 attention [1] 5/2 attorney [6] 9/12 40/4 56/20 58/7 73/2 75/11 Attorney General [5] 9/12 40/4 58/7 73/2 75/11 authority [17] 10/18 11/14 11/17 12/14 14/23 16/10 17/7 35/13 40/13 40/15 40/19 43/20 60/14 64/24 65/5 65/8 79/9 authorized [1] 55/3 available [3] 21/11 76/25 77/9 Avenue [3] 1/20 2/3 2/17 avenues [1] 37/5 avoid [3] 11/19 12/11 12/19 avowed [1] 68/14 aware [2] 39/17 62/20 away [1] 48/21 awfully [1] 78/1	50/22 63/20 67/5 75/16 belabor [1] 35/23 belief [1] 9/14 believe [12] 5/7 6/17 15/5 20/3 24/21 31/17 37/1 45/14 49/15 60/9 74/9 79/9 bench [4] 4/14 4/18 35/11 72/1 benefit [1] 52/1 Bernstein [4] 2/2 3/23 3/24 4/1 besides [1] 40/3 best [4] 1/19 34/20 68/9 70/23 better [1] 35/21 between [4] 31/4 34/12 55/19 62/10 beyond [5] 16/10 17/5 36/3 37/11 69/24 big [4] 14/7 48/22 44/19 44/20 44/22 45/20 46/21 47/25 48/25 49/3 50/9 52/15 52/19 52/21 52/22 55/16 56/22 57/5 58/23 59/8 61/1 63/22 64/2 65/9 65/25 66/5 66/9 67/1 69/15 72/8 73/8 74/4 74/20 75/24 76/6 77/1 77/12 79/22 can't [27] 8/6 14/11 17/10 20/5 20/9 20/9 23/20 24/9 26/12 26/14 26/16 35/13 35/14 35/15 37/7 37/11 37/14 41/16 46/4 51/5 53/20 54/25 58/4 60/15 65/1 65/2 70/12 candid [1] 34/21 candidate [1] 58/14 Cannon [1] 2/9 cannot [12] 17/18 18/8 36/23 37/2 46/2 46/11 47/12 49/16 53/22 55/7 55/8 59/24 cards [1] 35/2 care [1] 58/8 case [53] 4/23 5/21 8/18 9/12 9/13 9/20 9/25 10/11 11/12 14/5 20/24 21/1 22/8 22/8 22/13 22/16 22/24 23/1 23/11 25/24 26/15 28/3 30/4 30/6 31/24 32/20 33/10 33/17 33/20 34/2 34/13 34/24 36/13 36/17 39/18 39/19 39/21 42/17 49/16 53/2 54/8 57/1 58/12 59/19 61/16 62/18 62/20 63/12 63/25 65/24 68/9 68/17 76/22 cases [25] 4/16 5/8 9/6 10/9 14/10 16/19 21/22 24/18 32/2 34/1 34/4 34/25 35/5 35/8 35/18 38/24 39/17 51/1 61/9 61/10 62/10 62/11 64/2
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C	close [3] 46/17 50/15 51/21 closely [2] 40/2 43/23 closest [1] 44/12 Clouse [2] 2/6 4/8 co [1] 40/15 co-extensive [1] 40/15 coercive [2] 29/13 71/3 cognizant [1] 62/9 Cohen [3] 42/6 42/10 42/11 Cohen's [1] 17/13 colleague [1] 51/9 collect [1] 30/12 COLUMBIA [1] 1/2 come [10] 5/18 20/14 21/18 32/19 33/6 49/12 50/9 51/21 65/21 72/7 comes [5] 13/6 21/1 55/5 66/12 69/20 coming [2] 25/18 33/12 Commander [1] 46/6 Commander in Chief [1] 46/6 commenced [1] 28/20 commercial [1] 52/10 committed [1] 73/23 committee [50] 3/7 6/22 8/6 10/4 10/5 10/12 10/15 10/25 11/25 16/18 23/16 24/24 25/9 27/12 28/4 28/8 28/9 28/11 31/20 40/18 40/20 41/5 41/10 42/12 42/23 43/1 43/6 53/4 53/6 55/3 55/5 55/17 55/19 56/4 56/4 56/6 56/9 56/20 57/15 58/18 59/6 59/13 59/15 59/17 59/23 60/18 66/24 68/9 74/18 77/6 Committee on Oversight [1] 74/18 committee's [3] 40/12 59/4 64/24 committees [5] 31/4 31/8 55/20 65/10 74/18 communications [1] 27/6 compact [1] 12/13 Company [1] 23/13 compared [1] 33/20 complaint [2] 29/10 32/25 complete [1] 30/20 compliance [4] 13/24 14/20 15/16 17/17 complying [3] 12/23 16/24 18/4 compromise [1] 66/9 computer [1] 2/20 computer-aided [1] 2/20 conceded [1] 74/9 concern [3] 25/14 32/14 76/16 concerned [1] 17/8 concerns [1] 71/11 concession [1] 15/21	concluded [1] 79/25 conclusion [1] 7/3 conclusions [1] 24/20 concrete [2] 19/3 21/1 conditional [1] 79/10 conditioned [1] 79/13 conduct [5] 9/24 45/1 48/3 73/15 73/19 conference [2] 29/11 29/24 conferred [1] 56/17 confess [1] 38/22 confidential [1] 59/13 confidentiality [1] 59/3 confidentially [1] 59/7 conflict [5] 12/2 18/13 18/14 18/14 19/11 conflicts [3] 17/23 51/23 74/3 confront [1] 17/19 confronting [1] 75/13 confusion [1] 16/1 Congress [89] Congress' [8] 8/19 16/8 17/7 24/9 24/10 26/2 65/5 71/2 congressional [3] 5/10 22/9 54/10 Congressman [5] 29/3 29/18 30/24 62/2 67/6 Congressman Jordan [3] 29/18 30/24 67/6 Congressmen [1] 32/4 Congresspeople [1] 67/5 conjunction [1] 78/6 conjured [1] 69/23 conjured-up [1] 69/23 consider [6] 5/19 31/12 31/16 37/5 76/7 78/5 consideration [1] 79/17 considered [2] 18/11 31/18 considering [3] 8/20 18/11 79/8 consistent [4] 38/10 40/18 41/1 60/21 consolidate [7] 5/6 33/20 34/7 60/3 61/17 71/11 71/25 consolidated [1] 77/18 consolidating [1] 60/5 consolidation [8] 6/12 27/21 27/24 33/11 33/18 34/6 71/15 72/8 Consovoy [37] 1/13 1/14 3/13 3/16 5/25 37/16 38/1 38/9 39/14 42/10 44/15 45/6 46/10 46/23 47/11 47/21 50/18 52/6 53/9 53/15 53/19 54/1 54/19 54/25 55/16 56/2 57/10 58/3 62/6 63/18 63/22 64/5 64/18 72/14 72/20 72/22 75/21 Consovoy's [1] 41/15	court [95] Court of Appeals [1] 79/14 Court's [4] 5/2 24/14 27/16 32/15 Courthouse [1] 2/17 courts [7] 5/12 5/15 48/17 51/14 64/2 66/2 71/5 covers [1] 46/12 create [1] 75/10 created [4] 9/8 12/13 15/25 20/7 credit [1] 10/24 criminal [2] 15/23 16/15 criminally [1] 47/25 cross [2] 60/7 68/24 cross-motions [1] 60/7 crossing [2] 69/13 70/21 CRR [2] 80/2 80/8 cue [1] 70/8 CUMMINGS [7] 1/6 8/10 42/4 53/10 53/20 55/8 62/2 Cummings' [2] 7/2 73/13 curious [1] 49/4 cut [1] 66/7 CV [1] 1/5
D	D.C. [4] 1/5 1/21 2/10 2/18 D.C. [9] 5/8 11/3 24/18 34/5 42/16 42/18 42/21 43/4 63/24 D.C. Circuit [9] 5/8 11/3 24/18 34/5 42/16 42/18 42/21 43/4 63/24 data [1] 65/11 Date [1] 80/7 Daugherty [1] 58/7 day [2] 21/1 24/5 days [5] 77/12 77/17 78/1 78/5 79/14 deal [2] 66/20 68/7 dealing [1] 61/3 dealings [4] 52/4 52/4 52/10 74/7 deals [1] 67/9 Debate [15] 28/14 52/24 53/2 53/5 53/21 54/6 54/12 65/15 65/17 65/20 66/6 66/16 66/25 67/4 76/22 decide [3] 12/16 48/25 64/2 decided [2] 20/13 62/19 deciding [1] 48/19 decision [13] 4/20 4/25 5/21 18/15 21/7 36/10 39/20 42/16 42/18 51/19 61/2 63/13 63/25 decision-making [2] 18/15 21/7 decisions [2] 17/24	JA248	

D	decisions... [1] 63/24 Defendants [2] 1/7 2/2 Defense [1] 56/17 defer [1] 48/17 definitely [3] 50/8 59/21 59/22 definitively [1] 68/14 delay [1] 63/9 delaying [1] 5/16 delegated [1] 65/11 demarcation [1] 39/11 deny [2] 9/7 79/4 depose [1] 28/11 deposition [1] 53/20 depositions [1] 30/7 depth [1] 35/4 described [1] 9/3 deserve [1] 5/2 destroyed [2] 47/1 47/4 determination [2] 11/9 15/10 determinations [2] 21/4 36/15 determine [11] 15/8 17/22 18/9 25/22 26/18 27/19 36/10 40/25 50/19 59/15 73/14 determined [1] 49/15 determining [3] 15/15 26/21 69/19 device [1] 49/19 diary [2] 50/11 65/2 did [17] 20/21 20/24 24/18 29/14 31/5 34/20 35/4 43/4 52/8 52/15 60/20 61/17 64/7 70/20 72/15 73/12 79/6 didn't [8] 29/23 32/19 34/9 53/12 53/25 62/2 68/15 72/11 different [21] 8/2 9/9 16/7 19/7 22/5 34/6 37/4 52/22 54/2 56/25 57/15 57/15 57/17 62/21 65/8 66/3 68/17 70/25 71/14 75/8 75/13 differently [1] 36/1 difficult [1] 46/3 directed [2] 5/8 66/11 direction [1] 57/22 directly [3] 13/1 20/7 26/20 disagree [6] 8/17 14/3 21/21 26/5 33/22 36/20 disappointed [1] 23/14 discern [1] 67/10 discernible [1] 35/11 discharge [1] 51/17 disclose [2] 47/17 59/16 disclosed [4] 31/15 44/23 59/21 76/3 disclosure [5] 17/17 19/14 44/17 44/23 45/14 disclosures [3] 9/2	13/19 68/25 discovery [11] 28/3 28/20 29/11 29/13 32/12 33/8 33/18 33/19 53/10 60/12 76/21 discuss [2] 13/5 20/15 discussed [1] 63/12 discussion [4] 6/10 7/19 53/23 54/24 dismiss [3] 32/24 60/6 71/22 dismissed [1] 61/6 dispute [2] 62/1 62/10 disputes [1] 33/3 dissatisfied [1] 75/16 disserving [1] 35/1 DISTRICT [7] 1/1 1/2 1/10 5/11 40/4 51/14 63/12 do [80] 5/8 6/6 6/11 7/20 7/21 8/17 11/11 14/8 14/11 17/6 17/8 21/11 23/3 25/9 26/14 26/15 26/16 29/7 29/17 30/12 33/8 34/15 35/12 37/8 37/14 37/23 38/4 40/18 40/24 41/8 43/11 43/11 43/19 43/22 45/13 45/15 45/19 45/23 46/11 48/8 48/13 48/15 49/1 53/18 53/20 53/22 54/25 55/4 55/8 55/24 55/25 56/13 56/22 57/1 57/2 57/5 60/3 60/5 61/22 62/17 63/10 63/10 63/16 64/2 64/10 69/8 69/14 70/12 72/10 73/2 75/23 76/4 76/9 77/4 77/12 77/13 77/19 77/25 78/21 79/8 Do they [1] 7/21 do you [3] 43/11 43/19 60/5 document [2] 31/15 71/8 documents [9] 25/14 27/4 27/10 28/17 30/7 33/13 42/6 42/11 59/5 does [25] 6/24 7/20 9/10 15/11 22/22 23/3 25/25 26/22 39/6 44/20 46/5 46/13 52/24 53/6 53/7 56/25 59/13 65/24 67/15 69/10 69/10 69/16 69/16 73/11 74/2 doesn't [9] 11/10 16/22 18/25 27/9 41/12 54/15 63/15 67/15 78/10 doing [13] 19/18 20/25 23/17 23/23 40/5 40/25 41/5 48/9 50/1 52/17 58/18 60/15 68/16 don't [69] 7/3 7/23 9/7 11/8 12/18 13/8 13/10 14/14 15/13 15/20 16/2 16/20 18/23 19/22 21/11 21/15 21/21 22/3 23/22 26/5 27/7 27/17 28/5 29/2 29/6 29/6	30/1 30/1 31/23 31/23 32/5 32/9 32/18 33/3 33/22 37/12 41/23 43/9 43/16 43/25 45/3 45/5 45/6 47/20 48/10 48/24 53/4 58/8 58/8 58/19 61/8 63/11 63/17 66/19 66/19 66/23 67/22 67/24 69/11 71/7 71/20 76/21 77/4 77/23 78/19 78/12 78/16 79/15 79/23 DONALD [2] 1/3 3/7 done [16] 8/15 24/17 24/18 25/9 30/13 31/1 35/21 47/14 49/20 55/1 58/17 61/16 74/1 74/13 75/17 76/14 door [1] 39/6 Douglas [2] 2/5 4/6 Douglas Letter [1] 4/6 douglas.letter [1] 2/11 down [4] 30/7 37/3 40/1 42/17 drag [1] 30/18 dragged [1] 62/11 draw [1] 24/20 drawn [1] 41/2 draws [1] 31/24 driven [1] 21/7 drop [1] 64/10 due [1] 51/2 duties [2] 51/17 73/3	end [9] 14/16 24/5 24/14 25/18 48/6 48/9 66/1 68/11 79/8 ends [1] 37/3 enforcement [22] 6/21 7/16 13/16 13/20 13/25 14/12 14/15 15/1 17/3 18/3 25/4 25/10 27/2 27/7 27/8 31/6 67/12 68/24 69/16 72/24 73/5 75/12 engage [4] 6/20 14/11 47/22 67/11 engaged [2] 18/20 73/15 engaging [3] 15/22 29/16 47/25 enough [1] 35/23 enterprise [2] 9/15 9/22 entirely [1] 43/14 entities [3] 3/20 7/10 15/9 entitled [1] 67/24 especially [1] 44/11 essence [1] 21/6 essentially [3] 40/14 54/9 78/4 estate [1] 23/18 et [8] 1/3 1/6 3/7 3/9 47/18 60/16 73/4 73/9 et al [1] 3/9 et cetera [3] 47/18 60/16 73/9 ethics [11] 7/9 19/14 19/14 20/13 42/7 45/7 45/12 52/20 68/25 70/3 70/17 Ethics in Government Act [5] 45/7 45/12 52/20 70/3 70/17 evaluate [2] 37/13 67/20 even [16] 10/24 14/19 18/24 19/12 24/9 30/9 31/16 41/4 41/11 41/14 42/11 46/10 48/5 50/15 66/10 71/5 event [1] 78/6 eventually [1] 46/22 ever [2] 70/5 71/5 every [6] 20/14 34/1 34/13 38/23 39/21 70/5 everybody [1] 33/14 everyone [2] 3/5 79/23 everything [7] 12/9 14/12 24/19 32/25 46/5 46/13 48/13 evidence [10] 5/20 6/13 8/11 21/17 30/9 71/18 71/23 72/2 72/5 75/24 evoked [1] 53/17 exactly [3] 24/21 63/7 70/18 example [16] 15/4 16/9 18/9 19/12 20/12 25/24 26/13 35/6 36/12 36/24 44/5 47/20 49/14 50/4	61/2 61/18 exceed [3] 6/23 17/7 36/8 Excellent [1] 38/6 except [1] 39/4 executive [3] 18/11 23/21 62/10 exercise [2] 10/17 74/4 exhaustively [1] 76/10 exist [4] 11/10 43/20 43/23 57/12 existence [1] 11/5 exists [2] 44/4 55/19 exit [1] 11/25 expediency [1] 5/1 expedited [2] 32/24 62/7 expediting [1] 32/19 expedition [3] 33/5 79/10 79/14 expeditious [1] 5/11 expenditures [1] 46/18 explained [1] 42/20 expose [2] 35/14 67/5 exposure [1] 35/15 expressed [1] 38/11 expressly [2] 24/7 53/1 extend [1] 74/7 extension [1] 45/17 extensive [1] 40/15 extent [6] 12/9 17/4 17/6 68/5 76/16 76/24 extreme [1] 79/14 extremely [2] 44/10 63/20 Exxon [1] 5/14	F	face [2] 17/14 21/16 facially [3] 24/5 24/12 24/12 fact [11] 7/22 14/1 21/1 33/16 39/11 39/25 40/2 43/17 48/21 53/8 78/9 factors [1] 64/10 facts [8] 33/6 35/5 35/7 35/10 61/25 62/1 71/20 71/22 factual [1] 33/3 failing [1] 73/4 fair [3] 17/24 31/5 35/23 fairly [2] 25/1 47/16 fall [1] 9/2 falls [1] 65/13 familiar [1] 35/9 famous [1] 49/16 far [8] 9/9 26/14 34/12 39/18 50/10 61/11 71/4 73/11 fashion [1] 6/17 fast [1] 78/1 favor [1] 37/3 federal [6] 7/10 15/17 18/4 23/14 44/12 46/5 feel [3] 25/17 29/14 34/20 feels [2] 30/4 36/1 fenced [1] 20/18
			JA249				

F	<p>few [2] 19/16 77/12 fewer [2] 35/20 35/22 figure [5] 50/6 71/18 72/2 72/8 77/9 filed [4] 29/10 32/23 33/4 33/9 filings [1] 6/17 filled [1] 20/15 finances [3] 7/9 7/13 13/19 financial [14] 10/16 12/7 13/11 13/19 15/9 18/9 45/14 52/4 52/10 56/4 56/9 56/25 57/9 73/22 financially [1] 52/1 find [8] 14/13 25/15 31/3 32/18 32/22 33/2 68/22 70/13 fine [1] 72/21 first [11] 6/20 7/7 34/2 34/4 41/8 41/24 59/2 61/16 65/21 66/5 73/13 First Amendment [4] 34/2 34/4 65/21 66/5 fit [1] 52/25 flagrantly [1] 68/3 Florida [1] 49/17 focused [2] 10/22 18/19 folks [1] 30/7 foot [1] 34/20 footnote [2] 65/23 71/2 Footnote 14 [1] 65/23 For Mazars USA [1] 3/23 foregoing [1] 80/3 foreign [4] 15/6 15/7 74/4 74/20 forever [1] 70/1 forfeiture [2] 10/11 13/6 form [2] 45/14 76/15 forms [2] 20/15 27/13 forth [3] 10/8 21/17 29/23 fortunately [2] 50/14 51/9 forward [2] 17/1 34/20 found [3] 14/14 22/9 70/19 four [3] 7/4 36/25 37/4 Fourth [1] 13/13 frame [1] 60/22 framed [2] 15/12 23/2 frankly [1] 21/6 fraud [2] 73/24 75/10 free [1] 47/22 Friday [2] 76/20 76/25 friend [5] 23/25 37/25 38/9 40/3 75/15 front [2] 62/22 63/5 fruitful [1] 54/24 frustrated [1] 12/15 frustrating [1] 38/23 FTC [1] 5/14 full [2] 5/2 25/4</p>	<p>fully [2] 34/9 76/10 fulsome [1] 35/20 function [17] 8/19 8/21 8/21 9/3 9/3 9/10 13/20 14/1 14/1 20/11 22/10 43/12 43/15 43/21 44/11 44/25 45/24 functions [2] 5/13 5/16 fundamental [1] 38/18 funds [1] 68/2 further [8] 13/5 27/20 59/8 64/1 64/13 75/24 76/8 78/10 furtherance [1] 50/22 fuzzy [1] 23/8</p> <hr/> <p>G</p> <p>gather [1] 55/18 gathers [1] 59/17 gave [1] 47/2 general [7] 2/9 9/12 35/13 40/4 58/7 73/2 75/11 generally [2] 26/19 57/2 gentlemen [1] 4/11 get [30] 4/12 15/9 17/20 24/5 24/6 27/16 29/3 29/18 30/25 31/10 31/10 33/9 34/8 34/22 39/9 41/14 41/15 60/25 63/15 65/1 65/2 67/2 67/19 71/2 71/8 71/18 73/24 74/10 74/14 79/21 gets [1] 26/4 getting [4] 24/7 35/21 38/15 77/11 give [12] 5/4 25/16 27/4 27/10 29/5 29/5 30/21 37/17 55/21 56/14 56/24 58/2 given [9] 5/11 22/5 29/24 31/7 39/23 44/12 59/9 60/14 79/9 go [13] 7/3 9/6 26/6 26/23 29/23 35/4 37/11 45/25 48/10 51/5 67/2 69/1 73/11 goes [3] 9/11 69/2 69/3 going [31] 12/13 15/8 18/1 19/19 21/12 27/9 28/12 29/4 29/4 30/6 30/18 32/5 33/14 34/6 36/10 36/13 37/24 42/1 45/8 45/10 48/9 48/10 52/6 53/18 55/15 58/16 58/16 62/16 68/5 68/21 69/25 good [15] 3/5 3/12 3/16 3/17 3/21 3/22 3/24 3/25 4/5 4/10 4/11 23/10 35/25 37/10 47/5 good morning [6] 3/12 3/16 3/21 4/5 4/10 4/11 got [8] 30/14 33/14 35/8 45/18 63/23 63/25 68/19 77/12 govern [1] 52/4</p> <hr/> <p>H</p> <p>had [34] 5/18 7/19 12/16 18/9 19/1 19/5 19/8 21/23 23/14 23/16 28/3 29/10 29/20 29/24 29/25 32/3 32/16 33/7 33/19 34/16 37/11 39/23 39/25 50/21 54/13 54/17 54/24 55/10 58/14 71/12 74/11 74/13 76/17 76/22 hadn't [1] 53/16 half [1] 10/24 halt [1] 5/13 hand [1] 40/11 handed [1] 47/2 handled [1] 23/15 Hanner [2] 2/8 4/9 happen [2] 23/9 24/10 happened [2] 44/7 62/9 happy [5] 6/9 56/21 57/4 57/24 61/22 harass [1] 39/8 has [104] hasn't [3] 25/9 34/16 76/17 hasty [1] 4/25 have [82] haven't [9] 32/16 34/16 52/25 53/3 61/18 71/21 72/5 76/12 78/11 having [4] 21/17 63/19 66/4 74/1 he [47] 7/4 7/7 14/24 16/24 18/11 19/22 20/15 28/17 28/17 29/18 42/5 45/13 46/7 47/22 47/24 47/25 50/11 52/8 52/9 52/11 52/15 53/9 53/12 53/12 53/16 53/17 53/20 53/22 54/21 54/23 55/8 56/3 58/17 63/19 63/22 65/2 67/6 70/8 73/23 74/3 74/3 74/5 74/10 74/10 74/11 74/11</p> <hr/> <p>I</p> <p>I also [1] 27/17 I am [4] 26/25 37/21 42/24 50/9 I apologize [1] 75/3 I assume [2] 72/4 77/17 I believe [7] 5/7 20/3 24/21 45/14 49/15 74/9 79/9 I can [6] 9/18 22/15 34/12 36/9 65/9 76/6 I can't [3] 24/9 26/14 26/16 I cannot [2] 36/23 37/2 I did [2] 29/14 35/4 I don't [7] 21/21 26/5 28/5 31/23 43/16 45/3 48/24 I don't know [6] 19/22 27/7 30/1 47/20 67/22 78/8 I don't think [14] 12/18 16/2 18/23 21/11 22/3</p>	<p>74/13</p> <p>he said [1] 56/3 he'll [2] 29/4 29/5 he's [19] 9/16 15/16 19/21 19/23 29/1 29/3 Government Act [1] 42/8 governments [2] 15/7 74/4 governs [1] 47/16 grab [1] 7/3 gravity [1] 5/23 Grooms [1] 56/19 ground [4] 10/7 10/7 17/21 45/4 grounds [1] 7/4 GSA [3] 52/3 52/14 52/18 guess [8] 10/14 17/2 17/4 20/20 25/7 29/9 61/19 78/15</p> <hr/> <p>H</p> <p>had [34] 5/18 7/19 12/16 18/9 19/1 19/5 19/8 21/23 23/14 23/16 28/3 29/10 29/20 29/24 29/25 32/3 32/16 33/7 33/19 34/16 37/11 39/23 39/25 50/21 54/13 54/17 54/24 55/10 58/14 71/12 74/11 74/13 76/17 76/22</p> <p>hadn't [1] 53/16 half [1] 10/24 halt [1] 5/13 hand [1] 40/11 handed [1] 47/2 handled [1] 23/15 Hanner [2] 2/8 4/9 happen [2] 23/9 24/10 happened [2] 44/7 62/9 happy [5] 6/9 56/21 57/4 57/24 61/22 harass [1] 39/8 has [104] hasn't [3] 25/9 34/16 76/17 hasty [1] 4/25 have [82] haven't [9] 32/16 34/16 52/25 53/3 61/18 71/21 72/5 76/12 78/11 having [4] 21/17 63/19 66/4 74/1 he [47] 7/4 7/7 14/24 16/24 18/11 19/22 20/15 28/17 28/17 29/18 42/5 45/13 46/7 47/22 47/24 47/25 50/11 52/8 52/9 52/11 52/15 53/9 53/12 53/12 53/16 53/17 53/20 53/22 54/21 54/23 55/8 56/3 58/17 63/19 63/22 65/2 67/6 70/8 73/23 74/3 74/3 74/5 74/10 74/10 74/11 74/11</p> <hr/> <p>I</p> <p>I also [1] 27/17 I am [4] 26/25 37/21 42/24 50/9 I apologize [1] 75/3 I assume [2] 72/4 77/17 I believe [7] 5/7 20/3 24/21 45/14 49/15 74/9 79/9 I can [6] 9/18 22/15 34/12 36/9 65/9 76/6 I can't [3] 24/9 26/14 </p>
----------	--	--	--

I	
I don't think... [9]	30/1 31/23 32/18 43/9 45/6 63/11 66/23 67/24 76/21
I guess [5]	10/14 17/2 25/7 29/9 78/15
I have [6]	10/4 11/8 25/1 26/9 26/10 39/13
I hope [4]	32/19 38/2 61/7 66/21
I just [4]	36/20 37/7 45/18 64/13
I know [7]	13/9 34/23 40/9 55/15 59/4 64/5 78/7
I mean [15]	10/4 19/6 21/3 24/8 25/11 25/20 26/12 31/18 41/2 46/16 49/5 49/23 54/8 58/5 60/3
I should [1]	79/4
I think [67]	8/2 11/20 19/10 19/25 20/15 21/8 21/16 22/11 22/14 22/15 22/17 22/22 23/10 23/19 23/24 24/3 25/1 26/4 26/12 26/20 27/15 28/2 30/23 32/22 33/2 33/10 34/7 34/19 35/24 39/21 42/15 44/1 45/3 45/9 45/9 45/10 45/25 46/10 46/23 48/15 51/11 51/11 53/12 53/16 53/17 54/11 56/3 61/1 62/20 62/25 64/2 65/1 67/19 67/22 68/3 68/6 69/20 70/6 71/11 72/22 74/10 75/5 75/14 75/22 76/7 76/9 76/17
I thought [3]	11/18 15/21 25/8
I understand [10]	18/21 23/25 27/16 29/20 33/22 36/1 43/16 47/13 65/16 69/12
I want [4]	4/12 30/21 38/7 50/11
I was [8]	29/9 37/23 37/24 46/20 47/12 55/12 55/15 65/16
I'd [7]	6/10 16/11 21/16 30/19 45/2 49/24 61/22
I'll [18]	13/1 17/20 34/21 36/22 37/17 38/3 38/5 38/22 41/15 64/21 75/23 75/23 76/2 76/3 76/5 76/19 78/21 79/21
I'm [45]	6/9 9/20 9/21 13/17 15/4 15/25 18/1 19/19 24/6 26/18 26/22 30/15 34/25 35/19 36/23 37/2 37/8 41/19 42/13 42/16 42/24 45/8 47/10 47/10 47/16 47/23 48/8 48/24 49/4 50/6 50/23 53/3 53/4
53/8 53/14 54/15 55/12 56/24 58/1 69/2 69/12 72/9 72/9 72/21 77/7	
I'm asking [1]	9/21
I'm going [3]	18/1 19/19 45/8
I'm just [5]	15/4 47/10 50/6 58/1 72/9
I'm not [6]	9/20 26/22 35/19 42/13 72/9 77/7
I'm not sure [2]	47/23 48/24
I'm sorry [3]	15/25 47/10 53/14
I've [15]	5/18 13/8 19/6 21/9 27/23 34/14 34/14 35/7 35/7 35/8 35/8 35/9 61/7 67/19 75/14
i.e [1]	65/11
identified [3]	13/18 17/21 19/6
identifies [1]	7/4
identify [2]	7/21 7/23
ignore [2]	17/10 27/18
ignoring [1]	45/21
illegal [4]	68/21 73/15 73/19 74/13
imagine [9]	10/9 14/5 32/1 34/19 35/9 36/23 37/2 37/7 37/12
imagined [1]	11/5
immediately [2]	30/25 33/5
impacts [1]	49/13
impair [2]	17/23 20/10
impartial [1]	17/24
impeachment [1]	73/17
importance [1]	5/23
important [5]	5/1 12/12 23/24 39/18 44/10
improperly [1]	8/15
In fact [1]	78/9
inaccurate [2]	70/19 70/20
inadmissible [1]	68/13
inappropriate [1]	66/23
including [2]	10/25 28/21
incompetent [2]	51/16 51/20
inconsistencies [1]	25/6
incorrect [1]	4/17
independent [1]	8/19
independently [1]	28/20
individual [3]	31/9 54/11 70/13
inefficiencies [1]	8/23
inferences [1]	24/20
inferior [1]	20/6
inflating [1]	17/16
inform [2]	27/5 27/13
information [7]	32/13 57/15 59/14 65/7 65/7 76/20 77/8
informative [2]	44/11
46/21	
informing [9]	8/21 8/21 8/22 9/3 43/15 43/21 44/24 45/24 59/24
injunction [9]	13/5 29/15 33/12 33/21 34/4 34/22 61/4 61/15 78/2
injunctive [1]	78/3
injury [2]	64/6 78/16
inquiring [1]	16/14
inquiry [2]	24/14 51/7
inside [1]	23/21
insider [2]	47/22 47/25
instance [1]	49/23
instances [1]	10/9
institution [2]	57/1 57/10
instruments [1]	29/2
insulated [1]	4/15
insurance [1]	27/11
Intelligence [2]	56/4 56/6
intend [2]	60/3 78/21
intended [3]	4/18 11/18 31/21
intending [1]	12/2
intent [1]	31/25
interest [10]	12/3 17/23 18/10 18/13 18/14 18/14 19/11 32/15 51/23 74/3
interested [3]	28/18 31/3 48/17
interesting [3]	11/12 33/2 58/20
interests [4]	4/24 15/7 51/25 74/20
interfering [1]	5/16
interlock [1]	43/23
internal [2]	11/14 70/23
interpreted [1]	11/20
interrogatories [1]	28/10
interrupt [1]	38/5
intersection [1]	4/23
intervene [2]	55/2 55/5
invade [2]	23/20 66/15
invading [1]	46/7
invalid [1]	58/6
invalidate [1]	69/3
investigate [13]	9/17 15/7 17/25 18/12 23/17 31/8 35/13 40/13 40/18 44/19 48/3 70/12 73/19
investigated [2]	13/20 46/17
investigating [3]	10/23 38/25 50/20
investigation [23]	7/11 7/13 9/1 10/1 10/15 10/17 12/25 13/24 14/12 14/15 15/24 16/3 18/21 24/1 24/13 32/5 39/1 39/11 40/13 44/7 44/7 48/10 49/1
information's [1]	10/23
investigations [4]	9/23
JA251	
16/9 18/20 43/13	
investigative [1]	71/3
investigatory [2]	5/16 7/24
investments [1]	47/18
invoke [3]	28/13 53/5 53/8
invoked [4]	52/25 53/3 65/17 76/23
involve [2]	36/10 37/1
involved [2]	9/14 13/9
involves [1]	4/23
involving [5]	5/1 36/11 54/9 58/12 62/21
Iraq [1]	44/8
ironic [1]	58/10
irrelevant [2]	51/16 62/4
irreparable [2]	64/5 78/16
is [320]	
is there [3]	49/8 49/25 50/21
isn't [9]	16/20 22/8 23/1 25/12 30/4 30/6 36/10 55/25 75/15
issuance [1]	7/4
issue [11]	10/10 12/12 23/12 34/13 58/22 60/11 61/24 70/23 75/11 79/11 79/15
issued [8]	5/6 5/21 5/22 8/10 41/10 59/6 60/23 63/15
issues [6]	4/22 5/1 5/23 5/24 21/10 75/8
issuing [2]	49/18 71/6
it [167]	
It was [1]	20/2
it would be [2]	61/19 78/13
it's [58]	13/3 16/15 17/13 18/25 19/2 19/4 20/3 21/20 22/15 23/7 26/8 26/9 26/14 29/13 30/8 33/10 33/15 39/14 39/19 39/20 40/5 41/4 41/8 41/10 42/2 42/24 42/24 43/10 44/1 45/20 45/25 46/2 46/3 48/10 48/13 58/10 60/19 61/16 63/11 65/4 65/18
it's [58]	13/3 16/15 17/13 18/25 19/2 19/4 20/3 21/20 22/15 23/7 26/8 26/9 26/14 29/13 30/8 33/10 33/15 39/14 39/19 39/20 40/5 41/4 41/8 41/10 42/2 42/24 42/24 43/10 44/1 45/20 45/25 46/2 46/3 48/10 48/13 58/10 60/19 61/16 63/11 65/4 65/18
it's [58]	13/3 16/15 17/13 18/25 19/2 19/4 20/3 21/20 22/15 23/7 26/8 26/9 26/14 29/13 30/8 33/10 33/15 39/14 39/19 39/20 40/5 41/4 41/8 41/10 42/2 42/24 42/24 43/10 44/1 45/20 45/25 46/2 46/3 48/10 48/13 58/10 60/19 61/16 63/11 65/4 65/18
K	
keep [3]	32/24 61/14 79/16
kept [1]	59/25
key [6]	42/8 42/15 46/1 46/21 48/11 64/8
Kilbourn [4]	22/12 23/1 23/9 71/5
kind [4]	14/23 25/14 63/20 64/9
kinds [3]	27/13 44/5 57/2
knocks [1]	37/3
know [59]	8/13 8/14 9/23 13/8 13/9 16/24 18/18 19/22 25/5 25/5 27/7 29/23 30/1 30/19 30/21 31/2 32/1 32/9 34/23 36/24 39/17 40/9 40/19 42/9 45/12 46/25 47/20 48/8 48/10 48/16 48/22 49/23 51/4 53/22 55/15 58/9 58/19 59/4

K	know... [21] 60/17 63/14 63/17 64/5 67/16 67/17 67/18 67/22 69/24 71/7 71/20 74/5 74/15 74/16 74/16 74/17 74/18 74/19 78/7 78/8 78/12 knows [3] 10/7 34/3 71/1	10/18 18/7 18/17 18/22 21/13 22/10 23/17 24/13 24/24 27/2 27/14 27/19 31/7 32/11 40/18 43/12 43/17 44/20 48/5 48/9 51/8 62/11 65/13 65/19 66/12 66/15 70/14 75/18 legitimate [11] 6/18 18/16 18/22 21/13 43/7 62/1 65/19 66/11 66/14 74/22 75/18 lengthy [2] 53/23 74/8 Leon's [1] 63/25 less [3] 10/12 15/17 43/3 let [4] 5/25 6/1 17/20 22/7 let's [17] 6/8 6/10 7/1 7/6 12/21 21/19 25/14 27/21 31/10 33/8 33/9 38/20 46/23 70/18 73/23 74/13 78/20 letter [14] 2/5 4/6 8/9 17/12 17/14 19/22 25/21 37/19 64/17 67/4 68/18 72/15 74/24 77/22 Letter's [1] 75/6 letters [11] 8/10 10/5 11/2 25/2 25/3 30/14 39/4 41/9 69/9 69/11 78/24 letting [1] 63/21 level [2] 56/20 67/21 liabilities [1] 44/17 liar [2] 42/10 42/12 libraries [1] 47/3 life [3] 49/9 49/11 49/19 like [46] 5/8 6/10 8/6 8/14 12/9 14/10 14/12 14/14 21/17 23/9 23/13 23/16 24/1 24/19 25/10 25/13 26/25 27/8 27/11 30/5 30/7 30/19 30/24 32/10 36/14 45/2 49/24 50/1 54/12 55/10 60/19 63/24 64/4 64/23 67/15 67/17 68/22 69/16 69/17 70/9 70/11 70/18 74/7 76/4 77/6 77/16 likelihood [2] 64/9 79/4 likely [1] 48/12 limitations [1] 77/7 limited [5] 33/7 33/8 51/2 60/14 62/15 limits [9] 12/1 12/8 20/8 23/4 23/7 49/4 49/4 49/9 50/7 line [14] 26/6 26/6 26/23 26/23 31/24 39/10 51/6 51/6 60/15 60/16 68/23 69/13 69/21 70/21 lines [1] 41/2 linked [1] 18/7 list [1] 58/1	listen [1] 59/22 literally [1] 71/24 litigating [1] 29/15 litigation [2] 13/9 13/9 little [5] 26/3 36/3 54/2 58/10 61/19 LLP [3] 2/2 3/23 3/23 loan [3] 49/24 73/24 74/14 long [6] 8/3 24/12 29/17 30/15 30/20 58/11 longer [1] 48/1 look [45] 8/9 14/6 16/11 19/21 21/22 23/22 23/22 24/2 24/9 24/16 24/19 24/21 25/3 25/10 25/11 26/13 27/3 30/2 35/11 36/21 36/22 42/12 43/17 45/20 46/4 46/23 49/24 51/5 52/15 52/19 52/21 55/10 58/16 58/16 60/14 60/15 68/17 69/15 69/16 69/16 70/18 73/2 73/8 74/23 76/2 looked [7] 23/16 24/22 24/23 27/1 32/10 44/6 44/6 looking [9] 24/15 43/1 49/18 51/6 51/23 60/15 67/24 72/23 73/5 looks [4] 14/12 24/1 27/7 70/18 lose [1] 78/13 lot [5] 4/17 19/21 21/4 45/9 79/21 lots [2] 33/13 33/13 lower [2] 39/25 58/6 lying [1] 73/24	many [8] 8/9 19/23 23/11 32/11 46/25 47/1 47/1 47/3 march [1] 37/25 marginal [1] 70/22 markets [1] 27/11 material [2] 27/1 33/3 materials [2] 28/21 67/6 matter [12] 17/25 19/4 19/4 23/20 25/22 26/22 39/1 40/8 41/13 50/19 76/7 80/4 matters [5] 11/14 22/25 31/25 66/1 78/13 may [27] 1/6 14/24 17/23 25/2 27/15 27/15 28/16 28/17 29/13 30/21 32/12 32/12 42/7 57/11 57/12 64/13 66/1 67/6 70/13 72/16 73/14 74/14 74/15 74/16 77/15 78/25 80/7 maybe [20] 28/8 29/9 45/22 47/22 50/4 51/24 53/14 58/19 58/19 58/20 61/20 65/1 65/2 65/3 65/16 67/15 67/15 70/19 74/2 74/3 Mazars [10] 3/23 55/2 55/25 55/25 56/1 56/13 56/23 57/6 67/9 77/12 MCCARTHY [1] 1/14 McCormack [3] 12/8 20/9 68/4 McGrain [13] 9/11 35/6 39/18 39/19 39/22 41/12 58/5 58/21 60/20 68/8 73/1 75/5 75/12 McPhaul [2] 51/15 51/19 me [39] 3/14 4/8 5/8 5/25 6/1 9/15 13/3 13/14 17/21 19/21 21/3 21/3 21/6 22/7 24/4 26/10 26/12 27/4 35/12 38/4 38/23 39/7 40/16 41/3 43/10 45/16 47/17 51/10 55/11 56/14 58/2 60/6 68/18 72/21 73/12 76/25 78/4 78/5 79/23 mean [24] 8/17 9/15 10/4 11/8 16/20 19/6 21/3 24/4 24/8 25/11 25/20 26/12 29/19 31/18 33/16 41/2 46/16 49/5 49/23 52/12 54/8 58/5 60/3 77/11 meaning [2] 14/8 68/14 means [3] 48/22 73/8 75/17 meant [3] 42/20 42/21 73/12 measurements [1] 69/7 mechanical [1] 2/20 mechanism [2] 71/10 71/15 media [2] 4/15 30/14	meet [3] 20/14 22/4 35/3 meeting [1] 51/21 Megan [2] 2/7 4/9 Megan Barbero [1] 4/9 megan.barbero [1] 2/13 MEHTA [2] 1/10 3/3 member [3] 28/16 31/16 70/23 members [3] 31/19 54/11 59/16 memo [8] 12/4 16/21 19/20 32/7 36/5 55/16 56/3 56/11 memorandum [12] 7/2 19/25 28/21 31/4 31/22 55/18 55/24 56/5 56/8 57/11 57/14 66/17 memorandums [1] 67/8 memos [1] 10/8 mention [1] 45/8 mentioned [4] 43/2 44/9 55/25 57/9 Merit [1] 2/15 merits [9] 6/11 6/16 35/2 35/25 61/5 61/11 61/18 64/10 77/18 mic [1] 32/3 Michael [2] 1/19 17/13 Michael Cohen's [1] 17/13 michaelbest.com [1] 1/22 might [13] 15/2 15/22 18/14 19/13 21/6 21/25 25/15 29/21 37/1 37/5 48/11 48/13 69/24 military [1] 46/8 mine [1] 45/18 minimum [2] 68/5 69/15 minority [6] 28/16 56/10 56/11 67/2 67/3 77/5 mislead [1] 43/25 missions [1] 65/11 misunderstanding [1] 38/18 misunderstood [1] 53/14 modern [1] 39/21 modify [1] 19/13 moment [7] 17/20 41/15 45/25 48/1 55/22 58/2 60/4 money [3] 46/2 46/5 46/12 mooted [1] 54/18 more [11] 29/21 30/15 31/3 32/17 34/15 35/20 39/21 63/18 63/18 68/9 71/4 morning [13] 3/5 3/12 3/16 3/17 3/21 3/22 3/24 3/25 4/2 4/5 4/10 4/11 21/15 Morse [2] 2/7 4/9
		JA252			

M				
mortgage [1] 49/24	27/24 36/9 37/24 37/25 38/2 38/7 38/9 40/3	79/13	61/1 68/11 77/18 78/11	Packwood [2] 63/12
Moscow [2] 74/10	42/19 50/13 51/9 54/2	NW [1] 2/17	opinion-driven [1]	70/22
74/14	58/1 66/21 70/3 75/15	NY [1] 2/3	21/7	page [2] 65/9 68/12
most [6] 5/11 19/10	myself [1] 25/8	O	opinions [2] 44/1	page 180 [1] 68/12
26/20 31/2 39/18 70/6	N	object [1] 68/13	78/14	papers [1] 13/4
motion [8] 32/23 33/4	narrowly [2] 11/21	objections [2] 6/6 72/5	opportunity [6] 5/3 5/4	paragraph [1] 69/4
54/9 60/6 60/7 61/19	12/11	obligation [1] 40/7	34/17 34/18 37/17	paragraphs [1] 36/4
61/20 71/22	nature [2] 27/18 72/8	observed [1] 5/14	76/17	PARK [1] 1/14
motions [3] 5/10 33/9	nearly [1] 38/23	obstacles [1] 72/11	opposed [1] 32/18	parliamentarian [1]
60/7	necessarily [3] 21/15	obtain [1] 77/8	opposite [3] 7/23	49/15
motive [5] 24/6 24/10	66/7 70/4	obviously [17] 20/16	11/19 33/16	part [5] 14/4 40/7 44/12
51/5 58/15 60/15	necessary [4] 7/7	23/12 37/21 43/7 44/10	59/23 65/14	59/23 65/14
motives [3] 24/9 24/10	25/17 53/25 78/11	45/20 46/7 48/19 51/2	partially [1] 69/3	
24/16	necessity [1] 5/15	52/15 52/19 58/8 62/4	particular [8] 8/18	
move [1] 61/23	need [26] 6/13 7/24	62/16 67/1 74/22 78/2	18/10 24/2 31/9 38/14	
Mr [1] 4/1	12/11 27/22 29/2 29/6	occur [1] 78/16	70/13 70/17 73/24	
Mr. [51] 3/16 3/21 3/24	29/6 29/17 30/15 30/15	odd [1] 61/19	parties [9] 5/2 5/4 5/19	
5/25 25/21 37/16 37/19	30/20 30/20 30/22	off [5] 20/18 49/9 52/17	5/24 32/12 33/12 34/12	
38/1 38/9 39/14 41/15	34/15 36/15 43/17	56/17 66/7	64/3 77/19	
42/6 42/10 42/10 42/11	44/20 45/3 45/5 45/16	offensively [1] 66/10	party [4] 29/12 66/4	
44/15 45/6 46/10 46/23	61/8 74/17 74/18 74/19	offered [5] 11/25 12/22	66/4 66/18	
47/11 47/21 50/18 52/6	78/8 79/10	21/9 24/13 73/13	pass [2] 15/2 21/1	
53/9 53/15 53/19 54/1	needs [1] 72/2	offering [1] 53/13	Passantino [3] 1/19	
54/19 54/25 55/16 56/2	neglecting [1] 73/3	office [17] 2/9 2/10	3/18 3/21	
57/10 58/3 62/6 63/18	never [1] 68/19	3/19 7/9 8/22 9/9 12/4	passed [2] 46/9 48/21	
63/22 64/5 64/17 64/18	new [5] 2/3 11/14 15/2	15/22 19/25 20/5 20/9	passing [1] 8/20	
67/4 72/14 72/15 72/20	21/18 62/22	22/5 48/1 52/1 73/15	patrick [3] 1/13 1/17	
72/22 73/20 74/7 74/24	New York [1] 62/22	73/16 73/19	3/14	
75/6 75/21 77/22 78/24	next [2] 50/21 62/24	Office of the President	Patrick Strawbridge	
Mr. Bernstein [1] 3/24	nice [1] 66/18	[3] 20/5 22/5 52/1	[1] 3/14	
Mr. Cohen [3] 42/6	Nixon [1] 47/5	officers [1] 20/6	payments [1] 15/6	
42/10 42/11	no [47] 1/5 4/19 4/25	Official [1] 2/16	penalties [1] 45/22	
Mr. Consovoy [34]	6/8 9/17 10/1 10/12	officially [3] 53/17	pencil [1] 26/7	
3/16 5/25 37/16 38/1	12/19 13/12 15/13	58/17 58/18	pending [5] 77/24	
38/9 39/14 42/10 44/15	15/17 18/2 26/9 28/2	often [2] 33/20 64/2	78/22 79/5 79/8 79/12	
45/6 46/10 46/23 47/11	29/10 29/24 33/18	oh [4] 47/14 53/6 58/3	penny [1] 46/9	
47/21 50/18 52/6 53/9	35/13 36/6 36/13 36/17	64/4	people [6] 25/15 27/13	
53/15 53/19 54/1 54/19	39/3 39/10 39/23 39/24	okay [20] 10/20 16/5	44/11 44/13 47/4 51/25	
54/25 55/16 56/2 57/10	40/7 41/2 43/3 47/5	21/12 26/24 28/6 42/21	performing [1] 73/3	
58/3 62/6 63/18 63/22	48/1 49/13 51/21 53/6	51/3 53/7 54/4 54/20	performs [1] 44/25	
64/5 64/18 72/14 72/20	55/7 56/5 59/11 59/23	56/7 57/18 57/23 60/1	perhaps [3] 39/7 43/16	
72/22 75/21	60/11 61/4 61/10 61/12	72/12 72/13 72/14 75/4	53/4	
Mr. Consovoy's [1]	61/25 64/8 65/14 72/4	75/22 77/14	period [1] 74/8	
41/15	76/5 79/3	old [3] 3/19 50/12	permissible [1] 70/15	
Mr. Letter [7] 25/21	noise [1] 58/20	50/12	permitted [2] 29/23	
37/19 64/17 67/4 72/15	none [2] 17/8 78/12	oligarchs [1] 74/16	77/5	
74/24 77/22	normally [1] 57/3	once [4] 8/5 29/10	permutation [1] 22/3	
Mr. Letter's [1] 75/6	Norris [2] 1/14 3/15	41/16 58/3	person [1] 25/19	
Mr. Letters [1] 78/24	not [134]	one [37] 5/8 5/12 9/5	personal [2] 13/11	
Mr. Passantino [1]	noted [3] 65/23 77/22	10/22 12/22 16/25	22/25	
3/21	78/14	22/14 23/20 30/5 31/7	personally [2] 40/5	
Mr. Trump [2] 73/20	notes [3] 33/11 33/24	31/8 35/25 36/8 36/8	52/2	
74/7	42/18	36/14 38/22 38/23	pertinency [1] 69/20	
Ms. [1] 56/19	nothing [13] 17/15	41/24 42/3 42/12 42/14	pertinent [1] 70/2	
Ms. Grooms [1] 56/19	17/16 30/25 37/14	42/15 43/11 48/11	phase [1] 78/3	
much [8] 20/18 30/22	37/15 46/16 48/25	50/20 56/24 58/25	picked [1] 32/3	
37/20 38/10 39/19	55/24 55/25 56/13	60/23 62/12 63/11	piece [3] 11/9 18/10	
64/16 72/19 79/20	56/22 57/1 57/5	64/23 65/18 68/1 68/7	19/3	
multiple [2] 20/16	notice [1] 22/17	72/16 75/1 79/6	pile [1] 34/5	
27/12	now [17] 3/2 7/17 19/6	ones [2] 21/18 62/12	place [1] 74/2	
Munaf [4] 61/2 61/15	21/18 25/14 36/24 43/8	only [12] 9/18 14/22	places [3] 23/25 44/2	
64/8 64/11	46/23 47/6 47/22 49/14	26/14 27/4 32/8 47/8	45/12	
must [5] 5/11 17/19	55/2 60/17 61/23 63/20	60/11 61/16 65/3 65/9	plainly [3] 51/16 51/20	
18/6 20/14 71/23	63/22 77/17	71/2 71/4	65/10	
muster [1] 22/4	nowhere [1] 50/14	open [4] 32/3 39/6	plaintiff [1] 79/13	
my [23] 4/17 4/20 5/18	nuisance [1] 38/14	75/23 76/19	plaintiffs [5] 1/4 1/13	
5/21 17/2 23/25 26/3	number [2] 48/16	operation [1] 67/14	6/1 32/18 58/13	
		opinion [6] 21/7 37/3	plaintiffs' [1] 76/13	
			plan [1] 4/18	

P	planning [1] 37/23 plausible [1] 24/12 pleading [1] 78/8 pleadings [4] 60/6 61/21 61/24 71/17 please [6] 3/4 3/10 27/10 38/4 56/15 79/16 pledge [1] 59/24 PLLC [1] 1/14 plus [1] 7/5 point [26] 6/23 7/17 13/2 13/7 19/3 21/12 21/24 23/25 38/9 39/16 42/14 46/21 49/18 50/13 61/9 63/11 63/17 67/9 70/3 72/11 72/16 75/1 75/5 76/7 78/22 79/1 pointed [7] 16/18 25/1 41/8 56/10 60/13 61/8 68/1 pointing [1] 47/11 points [5] 37/25 41/7 55/10 58/1 63/22 policy [1] 17/24 political [2] 24/11 39/10 Port [3] 11/14 11/17 12/14 Port Authority [2] 11/17 12/14 Port Authority of New York [1] 11/14 position [12] 7/11 9/21 9/24 20/1 38/13 42/22 42/23 43/5 66/9 66/22 77/23 79/3 possession [1] 28/17 possibility [1] 8/3 possible [5] 21/20 37/4 60/12 69/23 75/17 possibly [2] 48/25 63/18 post [2] 3/19 11/1 post hoc [1] 11/1 posture [3] 65/24 66/3 66/6 potential [4] 21/5 36/16 37/1 72/11 potentially [2] 10/10 36/25 Powell [4] 12/8 20/8 36/4 68/4 Powell v. McCormack [1] 68/4 power [7] 15/11 22/20 40/17 41/23 51/1 59/14 67/23 powers [8] 4/23 6/23 10/10 36/8 59/24 59/24 71/3 75/9 pre [1] 27/25 pre-terminate [1] 27/25 precisely [2] 40/8 68/23 predecessor [1] 42/19	predicated [1] 66/14 preliminary [9] 13/2 13/4 29/15 33/12 33/21 34/4 34/22 61/4 61/15 preliminary-injunction [1] 61/15 premise [1] 78/2 prepared [2] 29/19 55/17 presented [5] 4/22 5/23 36/15 42/6 42/11 Presidency [2] 12/3 59/22 president [61] 3/13 4/24 7/8 7/12 9/5 9/10 9/14 9/14 9/16 12/22 15/5 15/21 16/3 17/22 18/9 18/13 18/15 19/15 19/17 20/2 20/4 20/5 20/13 22/5 35/24 38/12 39/9 44/16 44/24 45/5 45/6 45/13 45/21 46/2 46/11 47/5 47/12 47/19 47/20 47/21 47/23 49/14 51/24 51/24 52/1 52/9 52/17 55/7 58/14 59/19 61/10 68/2 70/5 70/20 73/6 73/14 74/9 74/11 74/19 75/16 76/17 President Nixon [1] 47/5 President Trump [9] 3/13 38/12 52/17 55/7 58/14 59/19 61/10 73/6 74/9 President's [18] 9/2 9/25 10/15 12/6 13/11 13/24 14/20 20/10 44/25 46/6 46/18 49/9 49/21 49/24 50/11 52/4 65/1 67/12 Presidential [1] 46/25 Presidential Records Act [1] 46/25 presidents [2] 9/24 47/1 presiding [1] 3/3 presume [1] 51/13 presuming [1] 20/23 presumption [1] 51/10 pretty [5] 16/15 20/1 20/18 23/7 70/10 prevail [1] 78/21 prevents [1] 50/1 primarily [1] 37/21 principal [2] 6/18 20/6 principle [2] 31/24 69/20 prior [1] 62/9 prism [1] 18/18 private [5] 35/13 39/9 47/8 49/9 49/11 probably [5] 19/10 46/21 49/12 50/12 69/12 problem [3] 38/17 48/7 65/12 procedural [1] 20/10	Procedure [1] 29/7 proceed [2] 75/22 78/21 proceeding [3] 21/14 26/16 73/17 proceedings [5] 1/9 2/20 4/13 79/25 80/4 process [6] 28/24 58/23 58/25 59/12 60/2 71/9 produce [2] 32/12 55/18 produced [4] 2/20 28/24 59/3 59/5 produces [1] 31/1 profiting [1] 52/17 prohibited [1] 24/7 prohibition [2] 14/21 14/22 promise [1] 36/19 promptly [1] 5/21 proper [6] 6/25 12/24 13/11 15/23 16/2 18/6 properly [2] 7/12 55/1 prophet [2] 48/8 48/8 proposals [1] 22/4 propose [1] 60/5 proposition [5] 21/9 23/4 36/14 36/17 49/5 propositions [1] 35/19 prosecute [1] 73/4 prosecuted [2] 47/23 47/25 prosecuting [1] 73/7 prove [1] 75/17 proved [1] 68/16 provide [7] 6/24 29/19 56/21 57/4 57/24 59/5 59/12 providing [2] 16/12 46/8 province [2] 23/20 35/16 public [10] 8/22 27/1 30/10 30/13 31/22 31/25 39/3 44/17 57/3 59/10 publicly [2] 56/25 76/24 pull [1] 34/3 pure [3] 7/16 34/2 61/24 purely [2] 22/25 47/8 purport [1] 27/4 purpose [20] 5/3 6/18 8/15 18/17 18/22 21/13 26/21 27/14 27/19 27/24 38/2 43/7 43/18 44/20 50/22 51/17 65/19 66/12 66/15 75/19 purposes [7] 21/14 24/6 24/11 26/2 39/10 51/8 60/18 pursuant [2] 10/2 59/5 pursue [2] 32/12 78/16 pushed [3] 12/1 12/16 74/12 put [9] 6/8 12/6 21/17	receiving [1] 15/6 recently [1] 71/4 recognize [2] 40/6 54/8 record [14] 3/11 8/11 24/25 27/25 30/16 30/20 41/21 56/17 60/17 71/19 75/23 76/19 77/10 80/3 record's [1] 76/9 recorded [1] 2/20 records [15] 15/9 25/24 26/1 26/13 46/25 47/1 47/8 50/21 51/16 59/3 59/9 59/16 59/17 69/25 73/18 red [1] 69/13 redactions [1] 66/25 reflected [1] 76/13 reflects [1] 5/22 Reform [1] 3/8 refrain [1] 5/15 regard [1] 69/5 regarding [1] 13/15 Registered [1] 2/15 regular [1] 26/15 regularity [2] 51/10 51/13 regulate [1] 47/12 regulates [1] 70/5 related [2] 43/14 43/15 relates [1] 26/20 relating [1] 27/10 relationships [2] 52/14 74/8 relevance [4] 54/13 69/19 70/22 73/18 relevancy [1] 26/18 relevant [7] 7/18 26/2 34/13 47/7 60/12 69/24 74/6 relied [1] 51/15 reluctant [1] 56/24 rely [2] 29/6 45/4 relying [5] 13/4 30/9 42/16 43/21 44/14 remedial [4] 14/14 14/16 14/19 70/14 remember [11] 41/8 41/24 42/11 46/1 49/17 50/5 51/23 52/8 54/21 55/12 64/7 reminded [1] 51/10 reminds [1] 45/16 remiss [1] 72/11 remove [1] 52/9 rendered [1] 77/16 repeat [1] 78/8 repeatedly [1] 24/9 repetitive [1] 18/2 reported [3] 7/8 7/12 44/17 Reporter [4] 2/15 2/15 2/16 2/16 reporting [1] 10/16 REPRESENTATIVES [4] 2/8 3/9 4/7 38/14 request [4] 7/25 27/17 27/18 66/17 requested [2] 26/19
Q	qualifications [1] 20/9 qualify [1] 10/16 quash [1] 54/9 question [43] 6/2 9/22 10/14 11/3 11/19 11/24 12/16 12/19 13/6 14/7 15/2 16/6 16/17 17/5 21/12 22/17 22/19 24/6 25/7 25/21 30/8 30/8 34/2 34/11 44/2 44/16 46/1 50/18 50/21 50/23 50/24 52/22 54/2 54/5 54/7 55/11 59/1 60/2 60/2 60/4 71/14 74/1 75/6 questions [8] 11/15 18/19 27/20 35/3 37/22 38/3 58/23 77/1 quibble [1] 16/21 quickly [4] 31/1 62/19 75/2 78/1 Quinn [2] 14/11 70/12 quite [6] 11/21 12/15 22/5 23/10 25/1 70/25 quo [1] 32/25 quote [1] 65/9 quoted [1] 62/3	R	raise [4] 21/10 63/22 67/3 76/4 raised [2] 66/6 76/12 raises [2] 34/11 71/11 Ramos [2] 62/22 63/6 ranking [2] 28/16 31/15 rare [1] 34/1 rather [2] 31/1 78/1 rationale [3] 13/15 13/18 73/13 rationales [1] 17/1 rationalizations [1] 8/8 reach [1] 77/5 reached [1] 66/8 read [16] 12/11 13/4 21/10 31/23 33/10 34/14 34/14 34/25 35/7 35/7 35/8 35/9 38/24 43/16 44/1 61/9 reading [1] 13/12 real [2] 23/18 36/6 really [10] 12/9 24/14 30/11 34/9 38/13 39/6 39/8 52/16 58/25 67/9 Realtime [1] 2/16 reason [7] 5/6 7/4 19/17 24/13 60/10 60/25 65/16 reasons [8] 6/19 10/21 12/22 20/17 24/20 39/24 39/24 56/24 rebut [1] 72/20 rebuttal [1] 37/17 receive [2] 14/24 59/13	
		JA254		

R	ruling [3] 4/14 5/18 68/12 run [2] 26/5 38/15 rushed [1] 62/18 Russian [1] 74/16 Russians [1] 74/15	seconds [1] 56/14 secret [2] 24/16 59/25 section [4] 6/24 7/3 20/4 36/3 Section 205 [1] 20/4 Section 8 [1] 6/24 see [11] 21/22 34/1 45/21 50/11 56/22 57/5 57/6 57/20 66/19 70/18 77/15 seek [2] 25/17 77/6 seeking [5] 29/11 54/1 77/23 78/22 79/14 seems [8] 21/3 35/12 39/7 40/16 41/3 44/22 47/11 64/1 seen [1] 78/11 selectively [2] 47/2 47/2 sell [1] 47/18 Senate [4] 39/23 65/12 70/24 73/1 send [2] 28/10 73/6 sense [1] 26/3 separate [6] 7/19 34/11 43/14 60/4 65/8 65/14 serious [2] 4/23 35/3 serve [1] 51/24 serves [1] 44/10 Services [2] 56/4 56/9 session [1] 3/3 set [4] 10/8 34/1 38/19 79/11 seven [3] 77/17 78/1 78/5 Seventh [1] 33/17 Seventh Circuit [1] 33/17 several [4] 39/13 41/24 42/17 43/4 shall [1] 46/9 share [2] 66/25 67/6 shared [1] 66/25 sharing [2] 28/18 57/14 she [1] 50/12 Shelton [1] 24/3 shifted [1] 52/11 shot [1] 35/25 should [11] 45/21 45/22 45/23 59/20 62/18 63/15 66/25 67/20 72/20 79/4 79/15 shouldn't [4] 20/20 20/23 59/20 79/11 show [1] 42/6 showed [1] 35/2 showing [1] 58/17 shown [1] 64/9 side [4] 11/25 65/22 75/24 76/3 Silberman [2] 12/4 36/5 Silberman's [3] 12/4 19/19 19/20 silent [1] 41/11 similar [2] 23/11 45/15 simply [4] 12/20 35/24 37/12 65/5	since [5] 22/9 22/12 23/1 44/1 77/15 Sinclair [1] 8/19 single [4] 22/8 22/13 34/13 39/21 sit [1] 30/6 situation [3] 17/19 74/2 75/13 slate [1] 21/20 so [118] So I think [3] 26/22 34/8 69/6 so it's [1] 60/19 soft [1] 41/4 sole [1] 5/3 some [36] 8/10 8/18 9/15 11/1 14/14 18/15 18/19 21/12 21/21 21/24 26/4 26/8 29/20 29/21 32/2 34/24 35/4 35/5 38/24 38/25 42/4 42/5 44/2 45/8 46/5 49/16 49/18 50/10 51/14 52/11 54/13 55/19 63/13 70/1 70/20 71/11 somebody [2] 73/9 74/6 somewhat [1] 70/20 something [27] 4/12 14/13 23/13 27/11 29/3 29/18 29/19 31/16 34/6 35/20 41/25 44/19 45/20 48/18 48/20 49/12 50/1 54/12 55/17 58/3 68/21 70/13 70/20 73/23 76/1 76/2 76/4 sometimes [1] 35/20 somewhat [2] 18/1 65/24 soon [1] 79/22 sorry [6] 13/17 15/25 41/19 47/10 53/14 55/14 sort [8] 29/25 31/8 32/17 35/11 39/8 52/11 64/21 66/8 sorts [4] 46/8 58/13 59/13 73/21 sought [7] 27/12 28/20 33/5 50/22 66/4 66/11 66/15 sources [1] 77/9 spassantino [1] 1/22 speak [5] 9/18 14/16 27/17 32/17 34/19 special [1] 40/20 specific [1] 67/8 specifically [1] 44/15 spectrum [1] 25/19 speculate [1] 6/23 speculating [1] 53/4 speculation [1] 4/17 Speech [15] 28/13 52/24 53/2 53/5 53/21 54/6 54/12 65/15 65/17 65/20 66/6 66/15 66/24 67/4 76/22 spend [1] 46/2	spent [1] 46/9 sphere [1] 65/13 spilled [1] 59/10 spot [1] 32/22 stacked [1] 35/8 staffer [1] 54/23 stage [2] 35/2 61/15 stand [5] 17/2 23/3 35/18 36/13 73/12 standard [12] 26/10 26/17 35/3 50/17 50/23 51/15 51/18 51/22 64/12 71/15 78/9 78/13 standards [1] 78/7 stands [3] 21/8 36/17 79/24 start [8] 6/11 7/1 27/23 29/15 38/3 38/7 50/4 64/23 started [3] 4/12 68/18 70/4 starting [1] 71/4 starts [1] 48/9 state [1] 3/11 stated [4] 5/9 6/16 24/20 69/24 statement [7] 7/5 28/8 29/5 29/5 38/25 39/3 64/24 statements [13] 10/25 11/1 24/3 24/23 30/10 30/14 31/19 41/16 42/5 42/6 44/18 58/19 77/11 STATES [9] 1/1 1/10 3/8 4/6 4/25 9/16 15/6 44/24 74/20 status [1] 32/25 statute [4] 20/16 46/9 68/1 70/5 statutes [4] 19/14 36/7 45/8 45/11 statutory [1] 15/17 stay [8] 77/20 77/23 78/4 78/22 79/5 79/8 79/12 79/16 Stefan [2] 1/19 3/18 Stefan Passantino [1] 3/18 stenography [1] 2/20 step [1] 14/14 stepping [1] 22/25 steps [1] 70/14 Stevens [2] 33/17 33/23 stick [1] 60/23 still [9] 11/2 14/6 14/25 15/15 17/3 23/10 29/11 29/14 73/8 stipulated [1] 33/6 stock [3] 47/15 47/16 47/18 STOCK Act [2] 47/15 47/16 straightforward [2] 16/15 19/11 Strawbridge [2] 1/13 3/14 stretch [1] 50/13 strictly [1] 14/2
		JA255		

S				
Strike [1] 41/21	41/25 48/16 51/1 51/4	62/8 64/16 64/17 64/19	73/1 73/21 76/12 77/22	19/12 26/25 43/23
strikes [1] 21/6	51/11 51/19 58/8 58/12	64/20 72/14 72/19	there's [47] 4/16 7/18	66/10
struck [1] 40/1	58/15 60/13 60/20 61/2	74/24 74/25 75/20	8/3 8/13 8/17 11/2 13/9	thought [7] 11/18
stuff [1] 70/17	61/3 61/9 61/12 63/24	75/21 78/19 78/23	13/12 21/9 21/21 22/13	15/21 25/8 29/18 34/21
subcommittee [1] 32/2	64/7 64/11	79/18 79/19 79/20	22/14 25/5 25/6 28/2	54/1 58/15
subject [15] 7/13 12/24	Supreme Court [29]	thank you [16] 6/15	30/25 31/5 31/14 33/19	three [7] 19/6 19/8
15/23 16/2 17/25 18/6	5/7 7/22 8/1 14/10 18/5	37/15 37/16 37/18	33/21 35/11 36/2 36/13	20/14 31/7 35/11 36/24
19/4 19/4 19/7 25/22	22/8 24/8 24/18 32/21	45/18 56/18 62/8 64/17	36/17 37/14 37/14 39/3	37/4
38/24 39/1 40/8 50/19	39/20 41/12 41/25	64/20 72/14 74/24	40/7 43/17 44/24 48/5	through [5] 26/23
52/21	48/16 51/1 51/4 51/11	74/25 75/20 75/21	48/22 51/10 51/21 56/2	28/24 36/7 37/25 75/17
submit [8] 27/13 66/23	51/19 58/8 58/12 58/15	78/19 79/19	56/3 60/11 61/4 62/10	thrust [1] 17/11
75/24 75/25 76/1 76/5	60/13 60/20 61/2 61/3	Thank you very much	62/16 62/20 65/19	thumb [1] 48/22
76/20 77/6	61/9 61/12 63/24 64/7	[3] 37/20 64/16 72/19	67/22 68/21 76/16	Thursday [1] 4/17
submitted [5] 5/20	64/11	Thanks [1] 79/23	76/24 79/3	tie [2] 46/21 51/7
8/11 72/3 72/5 76/8	sure [10] 34/25 47/17	that [491]	therefore [4] 6/24 61/5	time [17] 4/2 5/19 6/13
subpoena [38] 5/10	47/23 48/24 50/9 56/16	that's [62] 7/13 9/21	74/17 79/4	27/22 29/20 30/21
6/17 7/5 10/6 11/13	64/15 72/18 79/2 79/19	10/10 12/8 13/13 13/16	these [26] 7/6 10/8	30/22 37/24 40/14
11/21 12/17 16/19	suspect [1] 79/3	13/25 14/1 15/8 16/25	18/19 19/11 21/10 22/4	49/16 62/15 62/17
21/10 21/16 22/9 25/11	SW [1] 1/20	17/21 19/18 20/16	25/19 27/4 27/13 31/4	63/13 63/21 69/5 77/15
25/17 27/3 27/8 29/7	system [1] 38/18	21/11 23/24 24/13	33/9 35/5 36/7 38/23	77/25
40/1 41/11 49/16 49/18	T	26/14 26/24 27/7 28/11	57/2 59/3 59/25 65/10	timeline [1] 5/22
49/21 54/6 54/10 55/6	tack [1] 14/16	30/11 30/11 33/19	65/21 67/8 67/20 69/25	times [2] 48/16 51/12
57/9 57/16 57/17 58/6	take [23] 6/5 6/14 7/6	36/13 36/13 36/14 37/7	70/9 72/11 73/18 74/22	timing [1] 60/3
59/5 59/19 62/21 63/14	8/7 10/4 14/13 17/18	38/18 39/25 40/9 42/3	they [53] 7/21 8/6 8/11	titled [1] 80/4
66/10 69/2 69/3 69/15	20/12 21/6 32/1 33/14	42/8 42/12 42/22 44/15	8/13 8/13 8/14 11/20	Tobin [9] 11/3 11/11
73/14 77/17	35/6 36/21 36/22 43/4	46/16 50/10 50/22 51/3	11/23 12/1 12/6 12/10	11/12 11/13 12/10
subpoena's [1] 7/7	52/16 53/20 58/4 64/21	52/7 53/22 54/12 55/2	12/12 12/19 12/19 15/2	20/21 20/24 21/8 22/1
subpoenas [6] 24/11	67/1 69/6 70/14 76/2	57/10 58/9 58/21 58/25	today [17] 3/14 4/8	today
24/22 57/2 71/3 71/6	taken [4] 38/13 41/16	60/25 62/23 63/7 63/16	4/20 4/22 5/20 34/17	3/14 4/8
71/8	45/9 71/23	65/5 68/17 68/23 70/17	34/19 36/7 38/10 42/25	34/19 36/7 38/10 42/25
substance [1] 17/11	takes [1] 32/11	71/2 72/21 72/24 75/4	50/14 61/7 64/25 75/15	50/14 61/7 64/25 75/15
success [5] 61/5 61/10	taking [2] 58/9 70/8	75/6 76/18 76/23	76/11 76/12 79/21	76/11 76/12 79/21
61/13 64/9 79/4	talk [5] 6/12 27/21	their [8] 8/8 9/24 25/4	today's [3] 4/13 4/19	4/13 4/19
succinctly [1] 20/1	37/23 38/20 63/21	27/13 36/8 47/1 68/6	5/4	5/4
such [8] 4/19 5/1 5/10	talked [4] 36/24 70/7	73/3	Todd [2] 2/6 4/8	
18/12 18/13 39/3 43/19	70/9 70/11	them [21] 6/7 6/9 20/15	Todd Tatelman [1] 4/8	
66/1	talking [3] 14/19 14/20	24/21 25/16 34/5 34/14	todd.tatelman [1] 2/12	
sue [2] 55/7 66/10	57/7	35/1 35/8 35/9 47/2	together [1] 31/8	
sued [3] 54/21 54/23	talks [1] 58/5	47/3 47/3 47/4 63/25	tomorrow [1] 46/7	
55/2	target [2] 59/18 63/14	64/21 65/11 66/7 68/10	too [5] 25/21 26/14	
sufficient [2] 5/18 8/4	Tatelman [2] 2/6 4/8	70/1 77/6	50/10 54/16 67/5	
suggest [3] 11/8 48/15	tell [2] 9/15 34/12	theme [2] 37/24 38/8	took [1] 71/7	
63/21	tells [1] 66/18	themselves [1] 24/23	top [1] 10/22	
suggested [3] 20/21	tenure [3] 73/15 73/16	then [22] 6/11 7/18	total [1] 38/17	
22/24 40/14	73/19	12/4 12/21 14/13 22/1	totally [6] 38/10 41/11	
suggesting [1] 12/18	term [2] 12/8 20/8	32/25 33/17 33/23	47/3 49/11 64/1 74/22	
suggestion [3] 4/20	terminate [1] 27/25	37/24 40/24 41/11	touches [1] 46/17	
8/18 44/22	terms [12] 6/13 9/18	41/11 55/5 60/19 66/12	trading [2] 47/22 47/25	
suit [1] 54/19	10/17 27/22 35/12	71/7 71/17 72/1 74/1	transaction [1] 52/16	
Suite [2] 1/15 1/21	43/13 46/17 54/3 59/2	74/3 74/4	transcript [3] 1/9 2/20	
sum [1] 17/11	59/9 60/2 78/22	there [71] 9/21 9/23	80/3	
summary [7] 6/17 33/4	terrific [1] 68/10	10/1 11/15 11/16 11/18	transcription [1] 2/20	
33/9 60/7 61/20 61/23	Terry [1] 49/17	12/19 17/15 17/15	travel [1] 58/12	
71/20	Terry Schiavo [1]	19/12 19/16 22/3 22/7	treat [2] 60/6 61/19	
supervises [1] 9/9	49/17	23/1 23/4 23/6 23/12	treated [1] 59/6	
supervisory [1] 9/10	test [9] 18/17 18/22	23/12 23/25 24/12	treatment [2] 5/11 59/9	
supplement [1] 71/19	19/2 19/4 41/4 41/4	25/15 25/22 25/23	trepidation [1] 37/9	
support [2] 31/6 49/19	41/25 49/22 69/18	29/10 29/24 29/24	trial [3] 53/9 71/25 72/1	
suppose [1] 74/13	tested [1] 21/2	33/18 34/7 34/13 36/6	tried [1] 27/23	
supposed [8] 25/12	testimonial [1] 71/6	38/24 39/10 41/2 42/7	true [4] 33/1 33/16	
25/20 37/2 37/8 50/23	testimony [3] 17/13	43/12 43/19 43/19	33/25 71/23	
50/23 51/5 68/15	17/15 33/14	45/22 48/7 49/8 49/12	TRUMP [18] 1/3 3/7	
supremacy [1] 15/18	than [9] 9/9 10/12	49/25 50/21 52/3 52/3	3/13 3/18 3/19 3/19	
supreme [31] 5/7 7/22	15/17 22/6 43/3 63/23	54/13 56/5 56/8 58/12	38/12 52/9 52/17 55/7	
8/1 14/10 15/17 15/18	65/8 75/13 76/5	58/13 59/8 60/11 61/3	58/14 58/14 59/19	
18/5 22/8 24/8 24/18	thank [25] 4/4 6/15	61/12 61/25 61/25	61/10 73/6 73/20 74/7	
32/21 39/20 41/12	37/15 37/16 37/18	62/17 63/13 63/18	74/9	
	37/20 45/18 56/18 62/5	65/14 66/5 67/10 67/19	trust [4] 3/19 12/7	
		68/23 70/25 72/4 72/4	66/21 68/3	

T	trusts [1] 70/9 try [3] 27/24 28/11 52/8 trying [13] 20/22 27/18 34/8 34/22 38/15 50/6 55/12 67/10 72/9 73/6 74/10 74/14 77/8 turn [4] 5/25 12/21 29/4 29/4 twice [1] 42/18 two [19] 6/18 8/1 9/4 10/21 17/2 23/19 23/22 31/2 32/4 33/8 35/16 36/24 42/4 43/20 58/23 60/22 69/1 73/10 77/1 tying [1] 40/2 type [2] 67/13 67/13	68/16 unless [4] 27/20 29/1 46/2 64/13 unlike [2] 20/6 20/6 unnecessary [1] 64/2 until [2] 75/23 76/19 up [21] 4/1 6/5 6/14 21/18 32/3 32/11 34/5 35/8 35/20 37/3 38/19 49/12 50/9 62/22 64/22 65/21 66/1 66/12 67/1 69/23 79/8 upon [5] 18/25 19/5 25/23 50/20 76/22 urge [1] 36/21 urging [1] 53/9 us [11] 4/16 19/23 25/16 27/10 37/10 61/8 63/21 66/11 68/10 70/18 71/18 USA [1] 3/23 use [2] 50/24 51/25 used [2] 8/24 65/12 useful [1] 25/16 using [2] 24/11 26/19	voluntarily [3] 25/16 28/24 31/15	we will [5] 55/2 57/24 59/18 70/20 77/23 we'd [10] 25/13 31/1 67/15 68/8 68/21 72/1 72/2 77/6 77/25 77/25 we'll [5] 14/13 32/24 57/22 60/4 75/22 we're [28] 14/19 14/20 15/8 26/6 27/9 30/18 31/3 32/5 32/22 38/15 46/7 46/8 46/15 46/15 46/16 50/14 51/23 57/7 58/16 58/16 58/17 62/2 63/19 67/10 67/24 70/8 73/7 75/13 we've [13] 6/16 8/11 10/22 13/13 32/25 33/14 34/25 36/4 36/24 47/14 67/2 71/12 72/5 weeds [1] 27/16 week [5] 31/1 31/2 33/8 43/4 62/24 weeks [2] 20/14 42/17 weighs [1] 48/19 welcome [2] 3/16 38/6 well [18] 6/8 13/22 26/13 28/23 32/4 36/9 37/12 42/10 43/10 45/21 48/16 49/14 63/15 64/5 71/14 74/13 74/15 78/20 went [2] 11/17 58/15 were [26] 9/25 11/1 11/15 12/12 16/10 16/12 16/14 24/23 29/15 29/23 31/19 34/8 34/21 48/12 53/17 55/3 58/12 59/3 62/6 64/21 68/14 68/16 70/16 71/2 73/3 73/4 weren't [2] 11/2 68/15 Wharf [1] 1/20 what [112] what's [2] 26/19 73/17 whatever [2] 69/23 72/10 whatsoever [1] 46/2 when [19] 9/11 13/4 24/2 25/3 27/3 28/20 33/11 34/7 35/2 39/10 40/11 47/18 48/19 50/11 54/19 63/3 63/5 65/2 66/18 where [14] 23/25 26/22 33/15 33/16 33/18 33/19 33/20 48/10 49/3 49/4 62/10 66/3 70/4 74/2 whether [34] 7/8 7/12 11/5 12/12 12/22 14/7 15/16 17/22 18/12 18/13 21/17 21/22 26/1 26/9 40/25 43/17 44/2 44/16 48/13 54/6 59/15 59/20 60/20 65/6 65/18 67/8 67/10 69/23 70/19 72/24 73/2 73/8 73/9 73/14 which [41] 7/23 9/8 9/8
				JA257

W

would... [60] 12/5 12/7
13/14 14/25 15/23 17/2
17/7 18/16 20/10 22/2
22/2 25/7 25/8 27/8
28/4 28/13 28/23 29/14
29/19 30/23 30/24 33/1
34/5 35/1 36/7 36/8
36/21 37/10 37/13
41/12 42/2 46/10 47/21
47/24 49/1 50/8 50/12
56/14 56/21 59/21
59/22 61/19 61/23
63/19 64/4 64/23 66/8
66/21 68/2 69/18 69/25
72/9 72/10 74/2 74/11
77/16 77/20 78/13
78/15 79/12
write [2] 35/25 37/2
writes [1] 4/16
writing [2] 34/15 76/10
written [4] 5/19 35/20
76/14 76/15
wrong [6] 4/21 14/13
39/15 65/17 75/18 77/4
wrongdoing [3] 8/14
8/22 25/5
wrote [2] 19/22 36/4

Y

yeah [4] 29/22 30/3
32/4 47/14
years [11] 19/22 44/6
47/1 49/25 50/3 50/3
50/12 50/12 69/1 71/5
71/7
Yemen [1] 46/7
yes [17] 6/4 8/25 23/2
31/13 40/10 45/18 49/7
52/23 53/19 54/14
56/12 58/24 63/7 64/15
74/10 75/2 78/19
yet [2] 34/3 63/12
yield [1] 67/23
York [3] 2/3 11/14
62/22
you [239]
you know [4] 31/2
40/19 46/25 63/14
you'd [3] 29/17 50/10
67/17
you'll [4] 32/18 57/6
76/25 78/12
you're [16] 4/1 21/3
26/13 30/6 39/17 40/4
40/25 48/7 48/19 50/25
51/5 57/22 60/15 62/20
63/21 79/16
you've [26] 20/20
22/24 29/20 30/13
30/14 34/12 35/15
35/16 35/18 35/21 39/4
39/16 39/17 40/14 44/1
46/1 49/5 61/9 63/23
63/23 63/25 77/11
77/12 77/18 78/9 78/13
young [1] 49/17
your [120]

Your Honor [71] 3/6
3/12 3/17 3/22 4/3 4/5
6/2 6/6 6/15 6/16 9/4
10/7 13/17 14/17 15/13
17/10 18/2 18/18 20/12
24/15 25/1 30/1 33/1
34/3 34/25 36/1 36/6
36/19 37/15 37/18
37/20 38/7 39/5 39/13
39/22 41/23 42/14 43/2
43/22 46/19 47/10 48/4
50/9 56/14 56/18 56/21
57/4 58/2 59/11 60/9
61/22 62/5 63/8 63/20
64/16 64/19 65/6 65/15
66/2 67/18 67/19 68/18
71/1 71/9 72/17 73/20
74/25 75/6 77/2 78/23
79/6
yourself [1] 78/14

Z

Zaremba [4] 2/15 80/2
80/7 80/8

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

DONALD J. TRUMP; THE TRUMP
ORGANIZATION, INC.; TRUMP
ORGANIZATION LLC; THE TRUMP
CORPORATION; DJT HOLDINGS LLC;
THE DONALD J. TRUMP REVOCABLE
TRUST; and TRUMP OLD POST OFFICE
LLC,

Plaintiffs,

v.

MAZARS USA LLP,

Defendant,

and

COMMITTEE ON OVERSIGHT AND
REFORM OF THE U.S. HOUSE OF
REPRESENTATIVES,

Intervenor-Defendant.

SECOND SUPPLEMENTAL DECLARATION OF WILLIAM S. CONSOVOY

1. I am an attorney at the law firm Consovoy McCarthy PLLC and counsel for plaintiff President Donald J. Trump in his personal capacity.

2. I am over the age of eighteen and under no mental disability or impairment. I have personal knowledge of the following facts and, if called as a witness, would competently testify to them.

3. Exhibit A to this second supplemental declaration is a true and accurate copy of an April 24, 2019 letter from Ranking Member Jim Jordan to Chairwoman Maxine Waters. As of today, it can be downloaded from the House Committee on Oversight and Reform's Minority page at <https://republicans-oversight.house.gov/wp-content/uploads/2019/04/2019-04-24-JDJ-to-MW-Financial-Services-re-Mazars-MOU.pdf>.

4. Exhibit B is a true and accurate copy of a May 15, 2019 letter from Ranking Member Jordan to Chairman Elijah Cummings. As of today, it can be downloaded from the House Committee on Oversight and Reform's Minority page at <https://republicans-oversight.house.gov/wp-content/uploads/2019/05/2019-05-15-JDJ-to-EEC-re-MOU.pdf>.

Per 28 U.S.C. §1746, I declare under penalty of perjury that the above is true and correct to the best of my knowledge.

Executed on May 17, 2019.

s/ William S. Consovoy

Exhibit A

JA261

Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND REFORM

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

MAJORITY (202) 225-5051

MINORITY (202) 225-5074

<http://oversight.house.gov>

April 24, 2019

The Honorable Maxine Waters
Chairwoman
Committee on Financial Services
U.S. House of Representatives
Washington, DC 20515

Dear Madam Chairwoman:

According to news reports, you have issued a number of subpoenas to financial institutions, including Capital One Financial Corp. (Capital One), for sensitive personal financial records relating to President Donald Trump and his immediate family.¹ The nonpublic Memorandum of Understanding (MOU) between you and Oversight Committee Chairman Elijah Cummings requires you to share with Chairman Cummings any documents that you may receive pursuant to your subpoena.² Chairman Cummings, similarly, has subpoenaed private financial information from Mazars USA LLP (Mazars), the global accounting firm that served private citizen Donald Trump.³

Both your subpoena to Capital One and Chairman Cummings's subpoena to Mazars are part of a coordinated and carefully managed campaign to attack the President for political gain, a fact that Chairman Cummings has not disputed.⁴ As such, and in light of your agreement to share Capital One material with Chairman Cummings, I write to ask whether you expect to receive copies of or access to any documents that Mazars may produce in response to Chairman Cummings's subpoena. I look forward to hearing back from you.

Sincerely,



Jim Jordan
Ranking Member

¹ See, e.g., Austin Weinstein & Billy House, *Democrats Subpoena Nine Banks in Probe of Trump Finances*, Bloomberg, Apr. 17, 2019; Andrew Ackerman & Lalita Clozel, *House Democrats Subpoenaed Nine Banks in Trump Finance Probe*, Wall. St. J., Apr. 17, 2019.

² Letter from Elijah E. Cummings, Chairman, H. Comm. on Oversight & Reform, to Jim Jordan, Ranking Member, H. Comm. on Oversight & Reform (Apr. 17, 2019); Memorandum of Understanding between Maxine Waters, Chairwoman, H. Comm. on Financial Servs., & Elijah E. Cummings, Chairman, H. Comm. on Oversight & Reform at 4 ("[T]he Issuing Chair agrees to share information and production with the non-Issuing Chair . . .").

³ Document Production Subpoena to Mazars USA LLP (Apr. 15, 2019).

⁴ Letter from Jim Jordan, Ranking Member, H. Comm. on Oversight & Reform, to Elijah E. Cummings, Chairman, H. Comm. on Oversight & Reform (Apr. 17, 2019).

The Honorable Elijah E. Cummings

April 24, 2019

Page 2

cc: The Honorable Elijah E. Cummings
Chairman
Committee on Oversight and Reform

The Honorable Patrick McHenry
Ranking Member
Committee on Financial Services

Exhibit B

JA264

Congress of the United States**House of Representatives**

COMMITTEE ON OVERSIGHT AND REFORM

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

MAJORITY (202) 225-5051

MINORITY (202) 225-5074

<http://oversight.house.gov>

May 15, 2019

The Honorable Elijah E. Cummings
 Chairman
 Committee on Oversight and Reform
 2157 Rayburn House Office Building
 Washington, DC 20515

Dear Chairman Cummings:

I write to follow up on my letter, dated April 23, 2019, about the nonpublic Memorandum of Understanding (MOU) you executed with Financial Services Chairwoman Maxine Waters to investigate President Trump.¹ You have not responded to this letter.

You did not consult with Republican Members of the Committee or allow Members to consider and debate the terms of your nonpublic MOU before executing it. You did not disclose the MOU's existence until after I raised the matter, and you still have not articulated the authority that allows you to bind the Committee through an MOU. You also have not released the MOU publicly.

Your nonpublic MOU is part of a coordinated and carefully managed campaign to use congressional oversight to attack the President for political gain. Similar to Chairwoman Waters's subpoena to Capital One, you issued a subpoena to Mazars USA LLP (Mazars) for eight years of sensitive, personal financial information about President Trump. However, in your memorandum supporting your subpoena to Mazars, you cited no specific law or legislative proposal for which you require the information to be subpoenaed.² In fact, in the weeks since your subpoena, you have not articulated to the Committee a specific legislative purpose for your subpoena. Instead, you apparently seek the President's personal financial information for the illegitimate purpose of public disclosure in pursuit of headlines.³

The language of your nonpublic MOU supports a conclusion that you seek the President's sensitive, personal financial information to police the President's financial transactions dating back to when he was not even a candidate for elective office. The Committee is not a substitute for the federal agencies charged with regulating and policing the financial and

¹ Letter from Jim Jordan, Ranking Member, H. Comm. on Oversight & Reform, to Elijah E. Cummings, Chairman, H. Comm. on Oversight & Reform (Apr. 23, 2019).

² See Memorandum for Members of the Committee on Oversight and Reform, Chairman Cummings's Unprecedented Subpoena of Mazars USA LLP (Apr. 15, 2019).

³ See Watkins v. United States, 354 U.S. 178 (1957).

The Honorable Elijah E. Cummings
May 15, 2019
Page 2

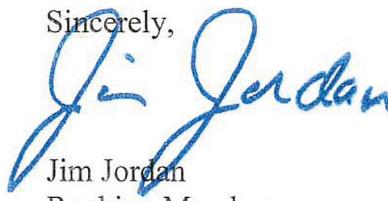
securities laws. Your MOU cites no federal statute, bill, amendment, or other legislative proposal for which the information is desired. In fact, the word “legislative” does not appear at all anywhere in your MOU, while the words “investigate,” “investigative,” and “investigation” appear several times. For example:

- “The Chairs agree that the Committees’ default position will be to cooperate on matters of mutual investigative interest”⁴
- “The Chairs agree to coordinate on whether subpoenas may be necessary to obtain compliance from a recipient in matters of mutual investigative interest.”⁵
- “To the extent that there are differences between the Committees regarding joint investigative efforts, Committee staff will make best efforts to resolve any such disagreement. If differences cannot be resolved at the staff level, the Chairs will endeavor to resolve matters together.”⁶

In addition, the preface of your MOU underscores the investigative and policing focus, noting the “overlapping jurisdictional *interest in certain individuals and entities*” and “the value of *approaching certain individuals and entities jointly*.⁷”

You have sought to avoid public scrutiny of your quest to obtain the President’s financial information. First, you wrote to Mazars in secret to request the President’s financial information; second, you executed a nonpublic MOU to coordinate with Chairwoman Waters; and finally, you broke your promise to hold a public business meeting to debate a subpoena to Mazars. Your nonpublic MOU has now become a matter of significant public interest due to your unprecedented actions. In the interest of promoting the utmost transparency about the Committee’s business, I encourage you to release publicly your MOU with Chairwoman Waters and any other signed or unsigned MOUs that you have entered into so that the American people can understand the extent to which you and other Democrat chairpersons are engaged in an orchestrated effort to attack the President for political gain.

Thank you for your attention to this matter.

Sincerely,

Jim Jordan
Ranking Member

⁴ Memorandum of Understanding between Maxine Waters, Chairwoman, H. Comm. on Financial Servs., & Elijah E. Cummings, Chairman, H. Comm. on Oversight & Reform at 1.

⁵ *Id.* at 4.

⁶ *Id.* at 11.

⁷ *Id.* at preface.

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

DONALD J. TRUMP, et al.)
Plaintiffs,)
v.) Case No. 19-cv-01136 (APM)
COMMITTEE ON OVERSIGHT AND)
REFORM OF THE U.S. HOUSE OF)
REPRESENTATIVES, et al.)
Defendants.)

)

MEMORANDUM OPINION

I. INTRODUCTION

I do, therefore, . . . solemnly protest against these proceedings of the House of Representatives, because they are in violation of the rights of the coordinate executive branch of the Government, and subversive of its constitutional independence; because they are calculated to foster a band of interested parasites and informers, ever ready, for their own advantage, to swear before ex parte committees to pretended private conversations between the President and themselves, incapable, from their nature, of being disproved; thus furnishing material for harassing him, degrading him in the eyes of the country . . .

- President James Buchanan¹

These words, written by President James Buchanan in March 1860, protested a resolution adopted by the U.S. House of Representatives to form a committee—known as the Covode Committee—to investigate whether the President or any other officer of the Executive Branch had sought to influence the actions of Congress by improper means. See Buchanan at 218–21.

¹ JAMES BUCHANAN, THE WORKS OF JAMES BUCHANAN VOLUME XII 225–26 (John Bassett Moore ed., J.B. Lippincott Company) (1911) [hereinafter Buchanan].

Buchanan “cheerfully admitted” that the House of Representatives had the authority to make inquiries “incident to their legislative duties,” as “necessary to enable them to discover and to provide the appropriate legislative remedies for any abuses which may be ascertained.” *Id.* at 221. But he objected to the Covode Committee’s investigation of his conduct. He maintained that the House of Representatives possessed no general powers to investigate him, except when sitting as an impeaching body. *Id.* Buchanan feared that, if the House were to exercise such authority, it “would establish a precedent dangerous and embarrassing to all my successors, to whatever political party they might be attached.” *Id.* at 226.

Some 160 years later, President Donald J. Trump has taken up the fight of his predecessor. On April 15, 2019, the Committee on Oversight and Reform of the House of Representatives issued a subpoena for records to Mazars USA LLP, a firm that has provided accounting services to President Trump. The subpoena called for Mazars to produce financial records and other documents relating to President Trump personally as well as various associated businesses and entities dating back to 2011—years before he declared his candidacy for office. The decision to issue the subpoena came about after the President’s former lawyer and confidant, Michael Cohen, testified before the House Oversight Committee that the President routinely would alter the estimated value of his assets and liabilities on financial statements, depending on the purpose for which a statement was needed. For instance, Cohen said that the President provided inflated financial statements to a bank to obtain a loan to purchase a National Football League franchise. But when it came time to calculate his real estate taxes, the President would deflate the value of certain assets. To support his accusations, Cohen produced financial statements from 2011, 2012, and 2013, at least two of which were prepared by Mazars.

Echoing the protests of President Buchanan, President Trump and his associated entities are before this court, claiming that the Oversight Committee's subpoena to Mazars exceeds the Committee's constitutional power to conduct investigations. The President argues that there is no legislative purpose for the subpoena. The Oversight Committee's true motive, the President insists, is to collect personal information about him solely for political advantage. He asks the court to declare the Mazars subpoena invalid and unenforceable.

Courts have grappled for more than a century with the question of the scope of Congress's investigative power. The binding principle that emerges from these judicial decisions is that courts must presume Congress is acting in furtherance of its constitutional responsibility to legislate and must defer to congressional judgments about what Congress needs to carry out that purpose. To be sure, there are limits on Congress's investigative authority. But those limits do not substantially constrain Congress. So long as Congress investigates on a subject matter on which "legislation could be had," Congress acts as contemplated by Article I of the Constitution.

Applying those principles here compels the conclusion that President Trump cannot block the subpoena to Mazars. According to the Oversight Committee, it believes that the requested records will aid its consideration of strengthening ethics and disclosure laws, as well as amending the penalties for violating such laws. The Committee also says that the records will assist in monitoring the President's compliance with the Foreign Emoluments Clauses. These are facially valid legislative purposes, and it is not for the court to question whether the Committee's actions are truly motivated by political considerations. Accordingly, the court will enter judgment in favor of the Oversight Committee.

II. BACKGROUND

A. The 116th Congress and the House Oversight Committee

On January 3, 2019, the 116th Congress began with the Democratic Party controlling a majority of seats in the U.S. House of Representatives. One of the House’s first actions was to adopt the “Rules of the House of Representatives,” which govern proceedings during the two-year term. This vote took place on January 9, 2019.² Rule X of the adopted House Rules, titled “Organization of Committees,” establishes various standing committees and their respective jurisdictions.³ Among the standing committees with the broadest purview is the Committee on Oversight and Reform (“Oversight Committee”). Its subject areas of primary jurisdiction range from the lofty—“[o]verall economy, efficiency, and management of government operations”—to the mundane—“[f]ederal paperwork reduction.” House Rules at 8. If there is a common thread running through the subjects within the Oversight Committee’s jurisdiction, it is the oversight of the operations and administration of the Executive Branch.

Each of the House’s standing committees possess “[g]eneral oversight responsibilities.” *Id.* at 9. Those responsibilities are meant to assist the House in (1) “its analysis, appraisal, and evaluation of” “the application, administration, execution, and effectiveness of Federal laws” and (2) “conditions and circumstances that may indicate the necessity or desirability of enacting new or additional legislation,” and (3) “its formulation, consideration, and enactment of changes in Federal laws, and of such additional legislation as may be necessary or appropriate.” *Id.* Some of the House’s standing committees have “[s]pecial oversight functions.” *Id.* at 10. The Oversight

² Final Vote Results for Roll Call 19, Adopting the Rules of the House of Representatives for the One Hundredth Sixteenth Congress, <http://clerk.house.gov/evs/2019/roll019.xml> (last visited May 20, 2019).

³ Rules of the House of Representatives, 116th Congress at 6 (Jan. 11, 2019), <https://rules.house.gov/sites/democrats/rules.house.gov/files/116-1/116-House-Rules-Clerk.pdf> (last visited May 20, 2019) [hereinafter House Rules].

Committee is one of them. Its “special oversight function” is described as involving the “review and study on a continuing basis the operation of Government activities at all levels, including the Executive Office of the President.” *Id.* The Executive Office of the President consists of a small group of federal agencies that most immediately aid the President on matters of policy, politics, administration, and management. The President’s closest advisors typically are situated in the Executive Office.⁴

Rule X also vests the Oversight Committee with special authority to conduct investigations. According to the Rule, “the Committee on Oversight and Reform may *at any time* conduct investigations of *any matter* without regard to [other rules] conferring jurisdiction over the matter to another standing committee.” House Rules at 11 (emphasis added). In other words, the Oversight Committee is empowered to investigate as to any subject matter, even in those areas that are expressly assigned to other committees. No other committee possesses such sweeping investigative authority.

The Oversight Committee’s broad investigative power is not new. In each of the four preceding Congresses—all controlled by the Republican Party, including during the final six years of the Obama Administration—the House Oversight Committee enjoyed the same power “at any time [to] conduct investigations of any matter.”⁵

⁴ See generally Congressional Research Service, “The Executive Office of the President: An Historical Overview,” Nov. 26, 2008, <https://fas.org/sgp/crs/misc/98-606.pdf> (last visited May 20, 2019).

⁵ Rules of the House of Representatives, 115th Congress at 505 (2017), <https://www.govinfo.gov/content/pkg/HMAN-115/pdf/HMAN-115.pdf>; Rules of the House of Representatives, 114th Congress at 497 (2015), <https://www.govinfo.gov/content/pkg/HMAN-114/pdf/HMAN-114.pdf> (last visited May 20, 2019); Rules of the House of Representatives, 113th Congress at 496 (2013), <https://www.govinfo.gov/content/pkg/HMAN-113/pdf/HMAN-113-houserules.pdf> (last visited May 20, 2019); Rules of the House of Representatives, 112th Congress at 492 (2011), <https://www.govinfo.gov/content/pkg/HMAN-112/pdf/HMAN-112.pdf> (last visited May 20, 2019).

B. The Oversight Committee's Investigation

From the start of the 116th Congress, the Oversight Committee, now led by a Democrat, moved aggressively to use its investigative powers. It did not adopt a resolution or issue a public statement defining the scope of what it intended to investigate. Instead, it sent a series of letters to the White House and elsewhere seeking various records regarding the President's personal finances, as well as records concerning his businesses and related entities. For instance, days before the new Congress started, the incoming Chairman of the Oversight Committee, Representative Elijah Cummings, wrote the President's personal lawyer, Sheri Dillon, and the Executive Vice President and Chief Compliance Counsel of the Trump Organization, George Sorial, asking them to produce previously requested "documents regarding the Trump Organization's process for identifying payments from foreign governments and foreign-government controlled entities . . ."⁶ In a different letter, the Chairman asked the General Services Administration ("GSA"), the agency that manages federally owned and leased buildings, to produce records concerning the federal government's lease with the Trump Organization for the Old Post Office Building, which houses the Trump International Hotel in Washington, D.C.⁷ Chairman Cummings indicated that he sought these records for multiple reasons, including the concern that the lease might violate the Constitution's Emoluments Clauses. Cummings' April

⁶ Letter from the Honorable Elijah E. Cummings, Ranking Member, House Comm. on Oversight & Reform, to Sheri A. Dillon, Counsel to Donald Trump, and George A. Sorial, Exec. Vice President and Chief Compliance Counsel, Trump Org. (Dec. 19, 2018), <https://tinyurl.com/Dec19CummingsDillonLetter> (last visited May 20, 2019).

⁷ Letter from the Honorable Elijah E. Cummings, Chairman, House Comm. on Oversight & Reform, et al., to Emily Murphy, Administrator, Gen. Servs. Admin. (Apr. 12, 2019), <https://tinyurl.com/Apr12CummingsHorneLetter> (last visited May 20, 2019) [hereinafter Cummings' April 12th GSA Letter].

12th GSA Letter at 1.⁸ These are but two examples of the types of records requests made by the Oversight Committee at the start of the 116th Congress.

The investigative demand that sparked this lawsuit was issued on January 8, 2019. On that day, Chairman Cummings wrote to Pat Cipollone, the White House Counsel, asking the President to produce “documents related to President Trump’s reporting of debts and payments to his personal attorney, Michael Cohen, to silence women alleging extramarital affairs with the President before the election.”⁹ The prior year, in May 2018, the Office of Government Ethics had concluded that the President should have disclosed a payment made by Cohen as a liability on the President’s public financial disclosure report.¹⁰ Chairman Cummings noted in the January 8th letter that the Oversight Committee “has jurisdiction over a wide range of matters, including the Ethics in Government Act of 1978,” a law that requires “all federal officials, including the President, to publicly disclose financial liabilities that could impact their decision-making.” Cummings’ January 8th Letter at 1. On February 1, 2019, the White House Counsel responded to

⁸ This request for documents was not new. During the early months of the Trump Administration, Representative Cummings, who was then the Ranking Member on the Oversight Committee, along with other Democratic members, asked GSA to produce records regarding the Old Post Office lease. *See Cummings v. Murphy*, 321 F. Supp. 3d 92, 97–99 (D.D.C. 2018). When GSA did not cooperate, the Members brought a lawsuit to force it to disclose the records. *See generally id.* This judge handled that very matter and ruled that the Democratic members lacked standing to bring the case. *See id.* at 101–17. That decision is pending before the D.C. Circuit.

⁹ Letter from the Honorable Elijah E. Cummings, Chairman, House Comm. on Oversight & Reform, to Pat Cipollone, White House Counsel (Jan. 8, 2019), <https://tinyurl.com/Jan8CummingsCipolloneLetter> (last visited May 20, 2019) [hereinafter Cummings’ January 8th Letter]. Then-Ranking Member Cummings made a request for similar records in September 2018, which went unanswered. *See* Letter from the Honorable Elijah E. Cummings, Ranking Member, House Comm. on Oversight & Reform, to Donald F. McGahn II, White House Counsel, and George A. Sorial, Exec. Vice President and Chief Compliance Counsel, Trump Org. (September 12, 2018), <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/documents/2018-09-12.EEC%20to%20McGahn-WH%20Sorial-TrumpOrg%20re%20Financial%20Disclosures%20Cohen%20Payments.pdf> (last visited May 20, 2019).

¹⁰ Letter from David J. Apol, Acting Dir., Office of Gov’t Ethics, to Rod J. Rosenstein, Deputy Att’y Gen., Dep’t of Justice (May 16, 2018), [https://oge.gov/web/OGE.nsf/0/D323FD5ABB1FD2358525828F005F4888/\\$FILE/OGE%20Letter%20to%20DOJ%20\(posting\).pdf](https://oge.gov/web/OGE.nsf/0/D323FD5ABB1FD2358525828F005F4888/$FILE/OGE%20Letter%20to%20DOJ%20(posting).pdf) (last visited May 20, 2019).

Chairman Cummings that the President was prepared to consider making some documents available for review.¹¹

Chairman Cummings wrote the White House Counsel again on February 15, 2019. *See* Cummings' February 15th Letter. He opened by stating that, by his January 8th letter, "the Committee launched an investigation into the failure of President Donald Trump to report hundreds of thousands of dollars in payments and liabilities to his former attorney, Michael Cohen, to silence women alleging extramarital affairs during the 2016 presidential campaign." *Id.* at 1. Chairman Cummings explained that "[t]he Committee's interest in obtaining these documents is even more critical in light of new documents obtained by the Committee from the Office of Government Ethics (OGE) that describe false information provided by lawyers representing President Trump . . ." *Id.* The letter went on to detail a timeline of recent events starting with statements made by the President's lawyers to the Office of Government Ethics and to the public about a supposed purpose of the Cohen payments unrelated to the election; followed by the President's disclosure of the Cohen payments on his 2017 Financial Disclosure form as a liability of less than \$250,000; and then revelations by federal prosecutors that the Cohen payments in fact exceeded the \$250,000 reported by the President. *Id.* at 2–6. In the end, Chairman Cummings cited Congress's "plenary authority to legislate and conduct oversight regarding compliance with ethics laws and regulations" as the source of its authority to make the records demand, as well as its "broad authority to legislate and conduct oversight on issues involving campaign finance." *Id.* at 7.

¹¹ Letter from the Honorable Elijah E. Cummings, Chairman, House Comm. on Oversight & Reform, to Pat Cipollone, White House Counsel at 1 (Feb. 15, 2019), <https://tinyurl.com/Feb15CummingsCipolloneLetter> [hereinafter Cummings' February 15th Letter].

C. Subpoena to Mazars USA LLP

On February 27, 2019, Michael Cohen appeared for a public hearing before the House Oversight Committee.¹² By this time, Cohen had pleaded guilty to a host of federal felony charges, including tax evasion, campaign finance violations, and making false statements to Congress.¹³ During his testimony, Cohen alleged that financial statements prepared by the President's accountants falsely represented the President's assets and liabilities. *See Cohen Testimony* at 13, 19. Specifically, Cohen stated that, in his experience, "Mr. Trump inflated his total assets when it served his purposes . . . and deflated his assets to reduce his real estate taxes." *Id.* Cohen supplied the Oversight Committee with portions of the President's Statements of Financial Condition from 2011, 2012, and 2013, some of which were signed by Mazars.¹⁴

Following Cohen's testimony, Chairman Cummings wrote to Mazars on March 20, 2019. The letter first summarized aspects of Cohen's testimony accusing the President of manipulating financial statements to suit his purposes; it then identified a half-dozen questions about assets and liabilities reflected in the President's Statements of Financial Condition that Cohen had provided to the Oversight Committee. *See Cummings' March 20th Letter* at 1–3. Chairman Cummings stated that these financial statements "raise questions about the President's representations of his financial affairs on these forms and on other disclosures, particularly relating to the President's debts." *Id.* at 1. The letter concluded by asking Mazars to produce four categories of documents

¹² *Hearing with Michael Cohen, Former Attorney to President Donald Trump: Hearing Before the H. Comm. on Oversight & Reform*, 116th Cong. (2019), <https://tinyurl.com/CohenHearing> (last visited May 20, 2019) [hereinafter Cohen Testimony].

¹³ *See* Mark Mazzetti, et al., *Cohen Pleads Guilty and Details Trump's Involvement in Moscow Tower Project*, N.Y. TIMES, Nov. 29, 2018, <https://www.nytimes.com/2018/11/29/nyregion/michael-cohen-trump-russia-mueller.html> (last visited May 20, 2019).

¹⁴ *See* Letter from the Honorable Elijah E. Cummings, Chairman, House Comm. on Oversight & Reform, to Victor Wahba, Chairman and Chief Exec. Officer, Mazars USA LLP (Mar. 20, 2019), <https://tinyurl.com/Mar20CummingsLetter> (last visited May 20, 2019) [hereinafter Cummings' March 20th Letter]; *see also* Cohen Testimony at 13.

with respect to not just the President, but also several affiliated organizations and entities, including the Trump Organization Inc., the Donald J. Trump Revocable Trust, the Trump Foundation, and the Trump Old Post Office LLC. *See id.* at 4. The records requested included statements of financial condition, audited financial statements, documents relied upon to prepare any financial statements, engagement agreements, and communications between Mazars and the President or employees of the Trump Organization. *See id.* The relevant time period identified for the requested records was “January 1, 2009, to the present.” *Id.* In his initial letter to Mazars, Chairman Cummings did not articulate any legislative purpose for the records requested.

A week later, on March 27, 2019, Mazars responded that it “cannot voluntarily turn over documents sought in the Request.”¹⁵ Mazars cited various federal and state regulations and professional codes of conduct that prevented it from doing so. *See* Mazars March 27th Letter at 1.

On April 12, 2019, Chairman Cummings distributed a memorandum to Members of the Oversight Committee (“Memorandum”), advising them of his intent to issue a subpoena to Mazars.¹⁶ Under a section titled “Need for Subpoena,” Chairman Cummings cited to Cohen’s testimony that the President had “altered the estimated value of his assets and liabilities on financial statements,” as well as to the records Cohen had provided to support these claims. Cummings’ April 12th Mem. at 1–2. He also referenced “[r]ecent news reports” raising “additional concerns regarding the President’s financial statements and representations.” *Id.* at 1. In the “Conclusion” section of the Memorandum, Chairman Cummings listed the purposes for seeking the Mazars-held records:

¹⁵ Letter from Jerry D. Bernstein, BlankRome LLP, Outside Counsel to Mazars USA LLP, to the Honorable Elijah E. Cummings, Chairman, House Comm. on Oversight & Reform (Mar. 27, 2019), <https://tinyurl.com/Mar27MazarsLetter> (last visited May 20, 2019) [hereinafter Mazars March 27th Letter].

¹⁶ Memorandum from Honorable Elijah E. Cummings, Chairman, House Comm. on Oversight & Reform, to Members of the Committee on Oversight and Reform (April 12, 2019), <https://www.politico.com/f/?id=0000016a-131f-da8e-adfa-3b5f319d0001> (last visited May 20, 2019) [hereinafter Cummings’ April 12th Mem.].

The Committee has full authority to investigate whether the President may have engaged in illegal conduct before and during his tenure in office, to determine whether he has undisclosed conflicts of interest that may impair his ability to make impartial policy decisions, to assess whether he is complying with the Emoluments Clauses of the Constitution, and to review whether he has accurately reported his finances to the Office of Government Ethics and other federal entities. The Committee's interest in these matters informs its review of multiple laws and legislative proposals under our jurisdiction, and to suggest otherwise is both inaccurate and contrary to the core mission of the Committee to serve as an independent check on the Executive Branch.

Id. at 4. Chairman Cummings allowed 48 hours for Members to offer their views on issuing the subpoena. *See id.* The Committee's new Ranking Member, Congressman Jim Jordan, responded, declaring the action "an unprecedented abuse of the Committee's subpoena authority to target and expose the private financial information of the President of the United States."¹⁷

Notwithstanding the Ranking Member's objection, on April 15, 2019, the Oversight Committee issued the subpoena to Mazars that is the subject of this lawsuit. The subpoena sought the same four categories of records identified in the March 20th letter relating to the President and his affiliated organizations and entities. *See Subpoena*, ECF No. 9-2, Ex. A, at 3 [hereinafter Subpoena]; *see also* Cummings' March 20th Letter at 4. The subpoena, however, differed in one respect—it narrowed the relevant time period by two years to "calendar years 2011 through 2018."¹⁸ Subpoena at 3.

¹⁷ Letter from the Honorable Jim Jordan, Ranking Member, House Comm. on Oversight & Reform, to the Honorable Elijah E. Cummings, Chairman, House Comm. on Oversight & Reform at 1 (April 15, 2019), <https://republicans-oversight.house.gov/wp-content/uploads/2019/04/2019-04-15-JDJ-to-EEC-re-Mazars-Subpoena.pdf> (last visited May 20, 2019).

¹⁸ At oral argument, Plaintiffs stated that paragraph 2 of the subpoena applies "without regard to time." Hr'g Tr. at 69. That paragraph, however, is for all engagement agreements or contracts related to items "described in Item Number 1," which is time-limited from 2011 to 2018. *See Subpoena* at 3.

D. Procedural History

1. Plaintiffs Seek Injunctive Relief

On April 22, 2019, President Trump, along with his affiliated organizations and entities (collectively “Plaintiffs”),¹⁹ filed this lawsuit. *See* Compl., ECF No. 1 [hereinafter Compl.]. They originally named as defendants Chairman Cummings; Peter Kenny, the Chief Investigative Counsel of the Oversight Committee; and Mazars. Plaintiffs asked the court, among other things, to declare that the Oversight Committee’s subpoena to Mazars “is invalid and unenforceable” and to issue a “permanent injunction quashing Chairman Cummings’ subpoena.” Compl. at 13. With their Complaint, Plaintiffs filed an Application for a Temporary Restraining Order and Motion for Preliminary Injunction. *See* Pls.’ App. for a TRO, ECF No. 9; Pls.’ Mot. for Prelim. Inj., ECF No. 11; Stmt. of P&A in Support of Pls.’ App. for a TRO and Mot. for Prelim. Inj., ECF Nos. 9-1, 11-1 [hereinafter Pls.’ Stmt.]. The Application asked the court to enter an order “prohibiting Defendants from enforcing or complying with Chairman Cummings’ subpoena so that the Court can decide Plaintiffs’ motion for a preliminary injunction.” Pls.’ Stmt. at 14.

Following discussions with the Oversight Committee, Plaintiffs consented to the Committee’s intervention as a defendant in this matter and agreed to dismiss Chairman Cummings and Kenny as defendants. *See* Consent Mot. of the Oversight Committee to Intervene, ECF No. 12; Joint Stip., ECF No. 15. The parties settled on a briefing schedule on Plaintiffs’ motion for preliminary injunction, which the court entered. Minute Order, Apr. 23, 2019. The Oversight Committee also agreed to postpone the date for Mazars to produce records until seven days after

¹⁹ The complete list of affiliated organizations and entities includes: The Trump Organization, Inc.; Trump Organization LLC; The Trump Corporation; DJT Holdings LLC; The Donald J. Trump Revocable Trust; and the Trump Old Post Office LLC.

the court ruled on Plaintiffs' motion. *See id.* That agreement made it unnecessary for the court to enter a temporary restraining order.

2. *Consolidation under Rule 65(a)(2)*

Under the entered schedule, the parties were to appear before the court for oral argument on May 14, 2019. Five days before the hearing and one day after the parties had completed briefing, the court entered an order announcing its intention to consolidate the hearing on the preliminary injunction with the "trial on the merits," as is permitted under Federal Rule of Civil Procedure 65(a)(2). *See Order*, ECF No. 25 [hereinafter Order]. The court explained the reason for consolidation as follows:

The sole question before the court—Is the House Oversight Committee's issuance of a subpoena to Mazars USA LLP for financial records of President Donald J. Trump and various associated entities a valid exercise of legislative power?—is fully briefed, and the court can discern no benefit from an additional round of legal arguments. Nor is there an obvious need to delay ruling on the merits to allow for development of the factual record.

Id. The court made the decision to consolidate conscious of the need to expedite these types of cases. In *Eastland v. U.S. Servicemen's Fund*, the Supreme Court stated that motions to enjoin a congressional subpoena "be given the most expeditious treatment by district courts because one branch of Government is being asked to halt the functions of a coordinate branch." 421 U.S. 491, 511 n.17 (1975); *see also Exxon Corp. v. F.T.C.*, 589 F.2d 582, 589 (D.C. Cir. 1978) (describing *Eastland* as emphasizing "the necessity for courts to refrain from interfering with or delaying the investigatory functions of Congress"). The court also was cognizant of the fact that the Constitution's Speech or Debate Clause forecloses Plaintiffs from compelling discovery from the Oversight Committee, its Members, or staff. *See Eastland*, 421 U.S. at 503 (stating that "a private civil action, whether for an injunction or damages, creates a distraction and forces Members to

divert their time, energy, and attention from their legislative tasks to defend the litigation”); *see also Gravel v. United States*, 408 U.S. 606, 616–22 (1972). Relatedly, the D.C. Circuit has recognized that evidence relevant to determining whether Congress has acted in its legislative capacity is likely to come largely, if not exclusively, from public sources. *See Shelton v. United States*, 404 F.2d 1292, 1297 (D.C. Cir. 1968) (observing that relevant sources of evidence include “the resolution of the Congress authorizing the inquiry,” “the opening statement of the Chairman at the hearings,” and “statements of the members of the committee . . . or of the Staff Director”) (citations omitted). The court ordered the parties to submit any additional evidence to the court or lodge an objection to consolidation by May 13, 2019. Order at 2.

Plaintiffs protested the court’s consolidation order, but the Oversight Committee did not. *See Pls.’ Objections to Rule 65(a)(2) Consolidation*, ECF No. 29 [hereinafter Pls.’ Objections]; *see also* Oversight Committee’s Resp. to the Court’s May 9, 2019 Order, ECF No. 31. Plaintiffs asserted that, in briefing only a motion for preliminary injunction, they were constrained in their arguments on the merits. *See Pls.’ Objections* at 4 (“Nor have the parties had the opportunity to fully brief the important constitutional questions that this case presents.”). They also maintained that they needed more time to obtain additional evidence, specifically (1) a memorandum of understanding negotiated between Chairman Cummings and a Chair of a different House Committee, which they believed the Ranking Member of the Oversight Committee would voluntarily disclose to them, and (2) communications between Mazars and the Oversight Committee. *Id.* at 6–7. Plaintiffs did not assert that they could obtain discovery from the Oversight Committee. *See generally id.*

At the May 14th hearing, the court heard further argument from Plaintiffs on consolidation, and overruled their objection. The court found that no additional briefing would aid in its decision-

making, as the parties had comprehensively presented the issues and cited all applicable precedent. *See Hr’g Tr.* at 34. Indeed, Plaintiffs could identify no new argument that they would make if given the chance to do so. *Id.* at 34–36. To allow for Plaintiffs’ asserted need to gather additional evidence, the court left the record open until May 18, 2019. *Id.* at 75. Plaintiffs already had submitted some additional evidence after the consolidation order, which consisted of news reports of public statements of various Members of Congress. *See Supp. Decl. of William S. Consarovoy*, ECF No. 30 [hereinafter First Supp. Decl.]. Plaintiffs added two more letters from the Ranking Member before the record closed. *See Second Supp. Decl. of William S. Consarovoy*, ECF No. 34.²⁰

E. Cross-Motions for Summary Judgment

The legal issues presented do not require the court to resolve any fact contests because the material facts are not in dispute.²¹ Accordingly, having ordered consolidation under Rule 65(a)(2), the court treats the parties’ briefing as cross-motions for summary judgment. *See Mar. for Life v. Burwell*, 128 F. Supp. 3d 116, 124 (D.D.C. 2015) (reviewing case consolidated under Rule 65(a)(2) as cross-motions for summary judgment); *Indep. Bankers Ass’n of Am. v. Conover*, 603 F. Supp. 948, 953 (D.D.C. 1985) (same).

²⁰ Plaintiffs did not offer any evidence from Mazars; nor did they submit the memorandum of understanding that they claimed in their Opposition was critical evidence. The Oversight Committee, however, did submit that memorandum of understanding to the court *in camera*. The court has considered the contents of the agreement in rendering its judgment.

²¹ Although the Oversight Committee’s “motive” for issuing the subpoena to Mazars is a disputed fact, as discussed further below, it is not a “material” fact that would prevent deciding the case on cross-motions for summary judgment. *See Watkins v. United States*, 354 U.S. 178, 200 (1957). In addition, the Committee admitted “there is no legitimate dispute about the facts here. We’re not saying that Congressman Cummings didn’t say the things that he’s quoted as saying . . .” Hr’g Tr. at 61–62.

III. LEGAL PRINCIPLES

A. Congress's Broad Investigative Authority

Article I of the Constitution grants Congress all “legislative Powers.” U.S. Const. art. I, § 1. Although Article I does not say so expressly, the power to secure “needed information . . . has long been treated as an attribute of the power to legislate.” *McGrain v. Daugherty*, 273 U.S. 135, 161 (1927). As the Supreme Court observed in *McGrain*, the power to investigate is deeply rooted in the nation’s history: “It was so regarded in the British Parliament and in the colonial Legislatures before the American Revolution, and a like view has prevailed and been carried into effect in both houses of Congress and in most of the state Legislatures.” *Id.* “There can be no doubt as to the power of Congress, by itself or through its committees, to investigate matters and conditions relating to contemplated legislation.” *Quinn v. United States*, 349 U.S. 155, 160 (1955).

Related to Congress’s legislative function is its “informing function.” The Supreme Court has understood that function to permit “Congress to inquire into and publicize corruption, maladministration or inefficiency in agencies of the Government.” *Watkins v. United States*, 354 U.S. 178, 200 n.33 (1957). “From the earliest times in its history, the Congress has assiduously performed an ‘informing function’ of this nature.” *Id.* (citing James M. Landis, *Constitutional Limitations on the Congressional Power of Investigation*, 40 HARV. L. REV. 153, 168–194 (1926)). The informing function finds its roots in the scholarship of President Woodrow Wilson, which the Court first cited in *United States v. Rumely*:

It is the proper duty of a representative body to look diligently into every affair of government and to talk much about what it sees. It is meant to be the eyes and the voice, and to embody the wisdom and will of its constituents. Unless Congress have and use every means of acquainting itself with the acts and the disposition of the administrative agents of the government, the country must be helpless to learn how it is being served; and unless Congress both scrutinize these things and sift them by every form of discussion, the

country must remain in embarrassing, crippling ignorance of the very affairs which it is most important that it should understand and direct. The informing function of Congress should be preferred even to its legislative function.

345 U.S. 41, 43 (1953) (quoting WOODROW WILSON, CONGRESSIONAL GOVERNMENT: A STUDY IN AMERICAN POLITICS, 303). Thus, though not wholly distinct from its legislative function, the informing function is a critical responsibility uniquely granted to Congress under Article I. *See* Landis, 40 HARV. L. REV. at 205 n.227 (describing the informing function as “implied and inherent” within the legislative function).

In furtherance of these duties, Congress’s power to investigate is “broad.” *Watkins*, 354 U.S. at 187. “It encompasses inquiries concerning the administration of existing laws as well as proposed or possibly needed statutes. It includes surveys of defects in our social, economic or political system for the purpose of enabling the Congress to remedy them.” *Id.* In short, “[t]he scope of the power of inquiry . . . is as penetrating and far-reaching as the potential power to enact and appropriate under the Constitution.” *Barenblatt v. United States*, 360 U.S. 109, 111 (1959).

But Congress’s investigatory power is not unbounded. The Constitution’s very structure puts limits on it. For instance, the power to investigate may not “extend to an area in which Congress is forbidden to legislate.” *Quinn*, 349 U.S. at 161. Nor may Congress “trench upon Executive or judicial prerogatives.” *McSurely v. McClellan*, 521 F.2d 1024, 1038 (D.C. Cir. 1975). A prime example of such overreach is exercising the “powers of law enforcement; those powers are assigned under our Constitution to the Executive and the Judiciary.” *Quinn*, 349 U.S. at 161. The Supreme Court has recognized other limits. Congress cannot “inquire into private affairs unrelated to a valid legislative purpose.” *Id.* Nor is there a “congressional power to expose for the sake of exposure.” *Watkins*, 354 U.S. at 200. “The public is, of course, entitled to be informed

concerning the workings of its government. That cannot be inflated into a general power to expose where the predominant result can only be an invasion of the private rights of individuals.” *Id.*²²

B. Determining Whether Congress Has Acted Legislatively

When a court is asked to decide whether Congress has used its investigative power improperly, its analysis must be highly deferential to the legislative branch. A number of guideposts mark the way forward.

To start, the court must proceed from the assumption “that the action of the legislative body was with a legitimate object, if it is capable of being so construed, and [the court] ha[s] no right to assume that the contrary was intended.” *McGrain*, 273 U.S. at 178 (citation omitted). It also “must presume that the committees of Congress will exercise their powers responsibly and with due regard for the rights of affected parties.” *Exxon Corp.*, 589 F.2d at 589. So, when it appears that Congress is investigating on a subject-matter in aid of legislating, “the presumption should be indulged that this was the real object.” *McGrain*, 273 U.S. at 178.

An important corollary to this presumption of regularity is that courts may not “test[] the motives of committee members” to negate an otherwise facially valid legislative purpose. *Watkins*, 354 U.S. at 200; *see also Eastland*, 421 U.S. at 508 (“Our cases make clear that in determining the legitimacy of a congressional act we do not look to the motives alleged to have prompted it.”) (citation omitted). “So long as Congress acts in pursuance of its constitutional power, the Judiciary lacks authority to intervene on the basis of the motives which spurred the exercise of that power.” *Barenblatt*, 360 U.S. at 132 (citation omitted). Thus, it is not the court’s role to decipher whether Congress’s true purpose in pursuing an investigation is to aid legislation or something more sinister

²² Other limitations on Congress’s investigative powers can be found in the Bill of Rights. *See Quinn*, 349 U.S. at 161. Plaintiffs have not asserted that disclosure of the records sought from Mazars would implicate any “specific individual guarantees of the Bill of Rights.” *Id.*; *see generally* Pls.’ Stmt.

such as exacting political retribution. *See McSurely*, 521 F.2d at 1038. If there is some discernable legislative purpose, courts shall not impede Congress's investigative actions. *See Watkins*, 354 U.S. at 200 ("Their motives alone would not vitiate an investigation which had been instituted by a House of Congress if that assembly's legislative purpose is being served.").

Although Congress's motives are off limits, courts can consider what Congress has said publicly to decide whether it has exceeded its authority. *See Shelton*, 404 F.2d at 1297. Relevant evidence includes the resolution authorizing the investigation, statements by Committee members, and questions posed during hearings. *See id.* At the same time, the mere absence of public statements identifying the investigation's purpose or subject matter is not, by itself, conclusive proof of an *invalid* purpose. *See McGrain*, 273 U.S. at 176–78. Congress is not required to announce its intentions in advance. *See id.* at 178. Similarly, it does not matter if the investigation does not produce legislation. *See Eastland*, 421 U.S. at 509. "The very nature of the investigative function—like any research—is that it takes the searchers up some 'blind alleys' and into nonproductive enterprises. To be a valid legislative inquiry there need be no predictable end result." *Id.*; *see also Townsend v. United States*, 95 F.2d 352, 355 (D.C. Cir. 1938) (Congress's "power to conduct a hearing for legislative purposes is not to be measured by recommendations for legislation or their absence."). The critical inquiry then is not legislative certainty, but legislative potential: If the subject matter of the investigation is "one on which legislation *could be had*," Congress acts within its legislative function. *McGrain*, 273 U.S. at 177 (emphasis added); *see also Eastland*, 421 U.S. at 504 n.15 ("The subject of any inquiry always must be one 'on which legislation could be had.'") (quoting *McGrain*, 273 U.S. at 177).

Once a court finds that an investigation is one upon which legislation could be had, it must not entangle itself in judgments about the investigation's scope or the evidence sought. Only an

investigative demand that is “plainly incompetent or irrelevant to any lawful purpose of the [committee] in the discharge of its duties” will fail to pass muster. *McPhaul v. United States*, 364 U.S. 372, 381 (1960) (citation omitted) (cleaned up). Importantly, in making this assessment, it is not the judicial officer’s job to conduct a “line-by-line review of the Committee’s requests.” *Bean LLC v. John Doe Bank*, 291 F. Supp. 3d 34, 44 (D.D.C. 2018). “There is no requirement that every piece of information gathered in such an investigation be justified before the judiciary.” *McSurely*, 521 F.2d at 1041.

And, finally, courts must take care not to be swayed by the political conflicts of the day. Its role is not to act as a political referee. As the Supreme Court cautioned in *Tenney v. Brandhove*:

In times of political passion, dishonest or vindictive motives are readily attributed to legislative conduct and as readily believed. Courts are not the place for such controversies. Self-discipline and the voters must be the ultimate reliance for discouraging or correcting such abuses. The courts should not go beyond the narrow confines of determining that a committee’s inquiry may fairly be deemed within its province.

341 U.S. 367, 378 (1951).

IV. ANALYSIS

With these principles in mind, the court proceeds to consider whether the Oversight Committee’s subpoena to Mazars is “facially legislative in character,” *McSurely*, 521 F.2d at 1038, or whether it exceeds Congress’s power to investigate. To answer that question, the court first considers the legislative reasons offered by the Oversight Committee to justify the subpoena. It then addresses Plaintiffs’ contentions why those reasons are invalid.

A. Legislative Purpose for Issuing the Subpoena to Mazars

Had the Oversight Committee adopted a resolution that spells out the intended legislative purpose and scope of its investigation, the court would have begun its inquiry there. Indeed, the

Supreme Court has considered congressional resolutions as a primary source from which to glean whether information “was sought . . . in aid of the legislative function.” *McGrain*, 273 U.S. at 176; *see also Shelton*, 404 F.2d at 1297 (observing that relevant sources of evidence to “ascertain whether [an inquiry] is within the broad investigative authority of Congress” include “the resolution . . . authorizing the inquiry”). However, the Committee never adopted one. While a clearly drafted resolution would have made this court’s task easier or might have preempted the challenge now brought altogether, it is not a constitutional prerequisite to start an investigation. *Cf. McGrain*, 273 U.S. at 178.

Without a resolution as a point of reference, the logical starting point for identifying the purpose of the Mazars subpoena is the memorandum to Members of the Oversight Committee written by Chairman Cummings on April 12, 2019. Chairman Cummings penned that Memorandum in anticipation of issuing the subpoena. It is therefore the best evidence of the Committee’s purpose. The Memorandum lists four areas of investigation: (1) “whether the President may have engaged in illegal conduct before and during his tenure in office,” (2) “whether he has undisclosed conflicts of interest that may impair his ability to make impartial policy decisions,” (3) “whether he is complying with the Emoluments Clauses of the Constitution,” and (4) “whether he has accurately reported his finances to the Office of Government Ethics and other federal entities.” Cummings’ April 12th Mem. at 4. Each of these is a subject “on which legislation could be had.” *McGrain*, 273 U.S. at 177.

Taking the reasons in reverse order, the accuracy of the President’s financial reporting relates directly to the law that requires it: The Ethics in Government Act of 1978. *See* 5 U.S.C. App. 4 § 101 *et seq.* In his letter to the White House Counsel dated February 15, 2019, Chairman Cummings alluded to how documents relating to the accuracy of the President’s disclosures fell

within the legislative purview of Congress: “Since the earliest days of our republic, Congress has investigated how existing laws are being implemented and whether changes to the laws are necessary. For decades, this has included laws relating to financial disclosures required of the President.” Cummings’ February 15th Letter at 9. As to the specific demand made on February 15th, which related to the payments by Michael Cohen and the President’s failure to publicly report them as a liability, Chairman Cummings explained that “[t]hese documents will help the Committee determine why the President failed to report these payments and *whether reforms are necessary to address deficiencies with current laws, rules, and regulations.*” *Id.* (emphasis added). This legislative rationale applies equally to the financial records requested by the Mazars subpoena. Congress reasonably might consider those documents in connection with deciding whether to legislate on federal ethics laws and regulations. For example, the discovery of additional disclosure violations by the President could influence whether Congress strengthens public reporting requirements or enhances penalties for non-compliance. Thus, there can be little doubt that Congress’s interest in the accuracy of the President’s financial disclosures falls within the legislative sphere.

Investigating whether the President is abiding by the Foreign Emoluments Clause is likewise a subject on which legislation, or similar congressional action, could be had. The Foreign Emoluments Clause prohibits the President from “accept[ing]” any “Emolument” from “any King, Prince, or foreign State” without the “Consent of the Congress.” U.S. Const. art. I, § 9, cl. 8. The Constitution thus expressly vests in Congress the unique authority to approve the President’s acceptance of “Emoluments,” however one defines that term. *See generally Blumenthal v. Trump*, No. 17-1154 (EGS), 2019 WL 1923398 (D.D.C. Apr. 30, 2019). Even under the President’s favored interpretation, the Clause, at a minimum, “was intended to combat corruption and foreign

influence . . .” *Id.* at *8. Surely, incident to Congress’s authority to consent to the President’s receipt of Emoluments is the power to investigate the President’s compliance with the Clause. Without such power, Congress’s constitutional function to approve or disapprove Emoluments would be severely and unduly constrained. The Founders could not have intended that result. A congressional investigation to carry out an expressly delegated Article I function, in addition to any legislation that might be had relating to that function, is plainly valid.²³

So, too, is an investigation to determine whether the President has any conflicts of interest. As already discussed, it lies within Congress’s province to legislate regarding the ethics of government officials. Indeed, exposing conflicts of interest is one of the core objectives of the Ethics in Government Act. As the D.C. Circuit has observed, “the Act shows Congress’[s] general belief that public disclosure of conflicts of interest is desirable despite its cost in loss of personal privacy.” *Washington Post Co. v. U.S. Dep’t of Health & Human Servs.*, 690 F.2d 252, 265 (D.C. Cir. 1982). Obtaining records to shed light on whether the President has undisclosed conflicts of interests is therefore entirely consistent with potential legislation in an area where Congress already has acted and made policy judgments.

Finally, a congressional investigation into “illegal conduct before and during [the President’s] tenure in office,” Cummings’ April 12th Mem. at 4, fits comfortably within the broad scope of Congress’s investigative powers. At a minimum, such an investigation is justified based on Congress’s “informing function,” that is, its power “to inquire into and publicize corruption,”

²³ To be clear, even if Congress’s authority to approve the President’s receipt of Emoluments is technically not a “legislative” act, the court doubts that the Supreme Court would read its precedent to foreclose Congress from investigating an Emoluments Clause violation based on a semantic distinction. The fact is, no court has ever been asked to address the extent of Congress’s power to police the Emoluments Clause. Therefore, it should come as no surprise that there is no case holding that Congress may exercise its power to investigate in relation to that Clause. But just as Congress’s authority to legislate is expressly rooted in Article I, so too is its power to consent to presidential receipt of Emoluments. If Congress’s power to investigate is incidental to its legislative function, it likewise must be incidental to carry out its Foreign Emoluments Clause function.

Watkins, 354 U.S. at 200 n.33.²⁴ It is simply not fathomable that a Constitution that grants Congress the power to remove a President for reasons including criminal behavior would deny Congress the power to investigate him for unlawful conduct—past or present—even without formally opening an impeachment inquiry. On this score, history provides a useful guide. *Cf. Tobin v. United States*, 306 F.2d 270, 275–76 (D.C. Cir. 1962) (relying on historical practice to determine the scope of a congressional investigation). Twice in the last 50 years Congress has investigated a sitting President for alleged law violations, *before* initiating impeachment proceedings. It did so in 1973 by establishing the Senate Select Committee on Presidential Campaign Activities, better known as the Watergate Committee, and then did so again in 1995 by establishing the Special Committee to Investigate Whitewater Development Corporation and Related Matters. *See* S. Res. 60 (93rd Cong., 1st Session) (Feb. 7, 1973) [hereinafter Watergate Res.]; *see also* S. Res. 120 (104th Cong., 1st Session) (May 17, 1995). The former investigation included within its scope potential corruption by President Nixon while in office, while the latter concerned alleged illegal misconduct by President Clinton before his time in office. Congress plainly views itself as having sweeping authority to investigate illegal conduct of a President, before and after taking office. This court is not prepared to roll back the tide of history.²⁵

²⁴ Plaintiffs suggested at oral argument that Congress’s informing function was limited to rooting out corruption only in “agencies” of the Government, and the President is not an “agency” of the government. *See* Hr’g Tr. at 9, 75. Although footnote 33 in *Watkins* refers to the informing function in connection with “agencies of the Government,” *Watkins*, 354 U.S. 200 n.33, the original conception of that function as embraced by the Court in *Rumely* was not so limited, *see Rumely*, 345 U.S. 41. *Rumely* spoke more generally of shining a light on “every affair of government” and “the acts and the disposition of the administrative agents of the government,” without qualification. *Id.* at 43. *Watkins*’ reference to administrative agencies is therefore better understood as a case-specific statement—the investigation there involved the Attorney General—rather than a limiting principle. Plaintiffs’ artificial line-drawing is antithetical to the checks and balances inherent in the Constitution’s design.

²⁵ Even if an investigation into a sitting President’s past or present illegal conduct lies beyond the Oversight Committee’s reach, its investigation here still would be legitimate because the Committee identified three other justifications with a valid legislative purpose. *See McGrain*, 273 U.S. at 176–77 (rejecting lower court’s opinion striking down a congressional investigation because the investigation “contemplat[ed] the taking of action other than legislative”).

Before moving on to Plaintiffs' arguments, the court notes that the Oversight Committee has identified several pieces of actual legislation that, it asserts, are related to its overall investigation of the President. *See* Oversight Committee's Opp'n to Pls.' Mot. for Prelim. Injunction, ECF No. 20, at 5–6. The House has passed H.R. 1, which requires, among other things, the President and Vice President to file new financial disclosure forms within 30 days of taking office, and to divest all financial interests that would pose a conflict of interest by “either converting those interests to cash or investments that satisfy ethics rules or placing those interests in a qualified blind trust or disclosing information about business interests.” *Id.* at 6 (citing H.R. 1, 116th Cong., Title VIII (2019)). Other bills cited by the Oversight Committee include H.R. 745, which would strengthen the Office of Government Ethics, and H.R. 706, which would prohibit the President and Vice President from conducting business directly with the Federal Government. *See id.* (citing H.R. 745, 116th Cong. (2019); H.R. 706, 116th Cong. (2019)). There is no mention of any of these bills in any written request from the Oversight Committee, let alone the April 12th Memorandum justifying the Mazars subpoena. That absence is not fatal, however. Again, the question for the court is whether the congressional investigation pertains to a subject matter on which legislation could be had, so Congress need not proactively identify any specific legislation to justify its activities. Here, the bills identified by the Oversight Committee demonstrate Congress's intent to legislate, at the very least, in the areas of ethics and accountability for Executive Branch officials, including the President. These are subjects, therefore, on which legislation could be had.

B. Plaintiffs' Contentions

The court now turns to Plaintiffs' contentions. Each of Plaintiffs' arguments for why the Mazars subpoena exceeds Congress's Article I investigative power fall into one of three general

categories. First, by characterizing the Oversight Committee’s investigation as one delving “into the accuracy of a private citizen’s past financial statements,” Plaintiffs contend that the Oversight Committee is engaged in “a quintessential law enforcement task reserved to the executive and judicial branches.” Pls.’ Stmt. at 11. Plaintiffs similarly contend that an investigation into the accuracy of the President’s financial disclosures, his adherence to the Emoluments Clauses, and his present or past compliance with the law is “law enforcement” activity that encroaches on the prerogatives of the coordinate branches. Hrg. Tr. at 7, 13–18, 25. Second, Plaintiffs charge that the Oversight Committee’s investigation “has nothing to do with government oversight,” but is instead intended to expose for the mere sake of exposure “the conduct of a private citizen years before he was even a candidate for public office . . .” Pls.’ Stmt. at 11. Finally, Plaintiffs maintain that the Oversight Committee has exceeded its authority, insofar as it is doing nothing more than “conduct[ing] roving oversight of the President,” and the records sought from Mazars are not “pertinent” to any legitimate legislative purpose. Pls.’ Reply in Support of Pls.’ Mot. for Prelim. Injunction, ECF No. 24 [hereinafter Pls.’ Reply], at 11–12. The court addresses each of these arguments in turn.

1. Usurpation of Executive and Judicial Functions

Plaintiffs first assert that each of the four justifications for the Mazars subpoena identified by Chairman Cummings in the April 12th Memorandum falls outside the bounds of legislative power, because each seeks to determine whether the President broke the law, a function reserved exclusively to the Executive and Judicial branches. *See id.* at 13–14. That argument, however, rests on a false premise. Just because a congressional investigation has the potential to reveal law violations does not mean such investigation exceeds the legislative function. The Supreme Court’s understanding of a “legislative” purpose is not so constrained.

To be certain, the Supreme Court has said that the “power to investigate must not be confused with any of the powers of law enforcement; those powers are assigned under our Constitution to the Executive and the Judiciary.” *Quinn*, 349 U.S. at 161; *see also Watkins*, 354 U.S. at 187 (“Nor is the Congress a law enforcement or trial agency.”). But that limitation is not so absolute as to foreclose Congress from investigating any law violation by a private citizen, let alone a sitting President, so long as Congress is operating with a legislative purpose. As the Court explained in *Sinclair v. United States*:

It may be conceded that Congress is without authority to compel disclosures for the purpose of aiding the prosecution of pending suits; but the authority of that body, directly or through its committees, to require pertinent disclosures in aid of its own constitutional power is not abridged because the information sought to be elicited may also be of use in such suits.

279 U.S. 263, 295 (1929). Thus, the Court has made clear that the mere prospect that a congressional inquiry will expose law violations does not transform a permissible legislative investigation into a forbidden executive or judicial function. *See McGrain*, 273 U.S. at 179–80 (“Nor do we think it a valid objection to the investigation that it might possibly disclose crime or wrongdoing on [the Attorney’s General’s] part.”); *see also Townsend*, 95 F.2d at 355 (describing *McGrain* as holding that “the presumption should be indulged that the object of the inquiry was to aid the Senate in legislating . . . even though the investigation might possibly disclose crime or wrongdoing on the part of the then Attorney General, whose name was expressly referred to in the resolution”).

Moreover, appellate courts have demanded exacting proof before declaring that Congress has impermissibly intruded into exclusive executive or judicial territories. According to the Supreme Court, “[t]o find that a committee’s investigation has exceeded the bounds of legislative power it must be *obvious* that there was a usurpation of functions exclusively vested in the

Judiciary or the Executive.” *Tenney*, 341 U.S. at 378 (emphasis added). Similarly, the D.C. Circuit has said that Congress avoids trenching upon executive or judicial prerogatives “so long as [the investigative activity] remains facially legislative in character.” *McSurely*, 521 F.2d at 1038. Therefore, a congressional investigation that seeks to uncover wrongdoing does not, without more, exceed the scope of Congress’s authority.

In this case, there is nothing “obvious” about the Oversight Committee’s activities to support the conclusion that the subpoena to Mazars is a usurpation of an exclusively executive or judicial function. Nothing “give[s] warrant for thinking the [Oversight Committee is] attempting or intending to try [the President] at its bar or before its committee for any crime or wrongdoing.” *McGrain*, 273 U.S. at 179. Nor is there evidence before the court that the Oversight Committee initiated its investigative activities at the behest of federal or state law enforcement officials, or is coordinating its actions with such officials. If anything, the evidence is to the contrary. The Executive Branch is clearly not coordinating with Congress, as it continues to resist calls to disclose records relating to the President’s actions in areas arguably well within Congress’s investigative powers.²⁶ The Committee’s stated purposes, therefore, do not usurp judicial or executive functions.

To support their position, Plaintiffs point out that (1) the Mazars subpoena arose out of the testimony of Michael Cohen—“an admitted perjurer,” Pls.’ Stmt. at 4; (2) the records sought relate primarily to the President’s personal and financial interests years before he became a candidate, *id.* at 11; and (3) Chairman Cummings admitted that the Mazars subpoena was intended to

²⁶ See, e.g., Carol D. Leonnig, et al., *No ‘Do-Over’ on Mueller Probe, White House Lawyer Tells House Panel, Saying Demands for Records, Staff Testimony Will be Refused*, WASH. POST, May 15, 2019, https://www.washingtonpost.com/politics/no-do-over-on-mueller-probe-white-house-lawyer-tells-house-panel-saying-demands-for-records-staff-testimony-will-be-refused/2019/05/15/1ad19728-7715-11e9-b3f5-5673edf2d127_story.html?utm_term=.b67bc595c86a (last visited May 20, 2019).

“investigate whether the President may have engaged in illegal conduct before and during his tenure in office,” Cummings’ April 12th Mem. at 4. In addition, Plaintiffs cite to statements made by Chairman Cummings before he issued the Mazars subpoena. For instance, in his March 20th letter to Mazars, Chairman Cummings focused solely on Michael Cohen’s allegations that President Trump misrepresented his assets and liabilities and made no mention of a legislative purpose for obtaining the records. *See* Cummings’ March 20th Letter; *see also* First Supp. Decl. at 5–9. Additionally, Plaintiffs offer a November 2018 *Vox* article that quotes Chairman Cummings as saying, “[w]e’ve got to address this issue of exposing President Trump and what he has done, and we’ve got to face the truth . . . The [P]resident is a guy who calls truth lies and lies truth. But at some point, he’s also creating policy, and that’s affecting people’s day-to-day life.” First Supp. Decl. at 42. Plaintiffs also provide a *Politico* article in which Chairman Cummings is quoted as saying, “[o]ver the last two years President Trump set the tone from the top in his administration that behaving ethically and complying with the law is optional . . . We’re better than that.” *Id.* at 54. None of these facts, individually or taken together, make for an “obvious” “usurpation of functions exclusively vested in the Judiciary or the Executive.” *Tenney*, 341 U.S. at 378.

History has shown that congressionally-exposed criminal conduct by the President or a high-ranking Executive Branch official can lead to legislation. The Senate Watergate Committee provides an apt example. That Committee’s express mandate was to investigate “the extent, if any, to which illegal, improper, or unethical activities were engaged in by any persons, acting either individually or in combination with others, in the presidential election of 1972, or in any related campaign or canvass conducted by or [o]n behalf of any person seeking nomination or election as the candidate . . . for the office of President . . .” Watergate Res. at 1–2. As a

consequence of the Committee’s work, Congress passed numerous pieces of legislation—among them, the Ethics in Government Act, the Congressional Budget and Impoundment Control Act of 1974, the War Powers Resolution, and the Independent Counsel Statute—with objectives to “open up the operation of the presidency to greater public oversight, subject[] the presidency to legal checks by other branches or institutions of government and, more generally, impose[] rule of law principles to more and more types of presidential decision making.” Michael A. Fitts, *The Legalization of the Presidency: A Twenty-Five Year Watergate Retrospective*, 43 ST. LOUIS UNIV. LAW J. 725, 726 (1999). The Teapot Dome Scandal provides another illustration. That congressional investigation concerned the award of a no-bid contract to lease federal oil reserves in Wyoming. Congress’s investigation revealed that the Secretary of Interior had accepted bribes from the oil companies that were awarded the leases. This discovery motivated Congress to enact several good-government reforms, including the Revenue Act of 1924 and the Federal Corrupt Practices Act of 1925. See James Sample, *The Last Rites of Public Campaign Financing?*, 92 NEB. L. REV. 349, 363 (2013). See also Lawrence A. Zelenak & Marjorie E. Kornhauser, *Shaping Public Opinion and the Law: How a “Common Man” Campaign Ended a Rich Man’s Law*, 73 LAW & CONTEMP. PROBS. 123, 126 (2010). This court is in no position to say that an equally ambitious legislative agenda might not arise out of the current era of congressional investigations of the presidency.

2. *Investigation of Private Affairs*

Plaintiffs next accuse the Oversight Committee of issuing the subpoena to Mazars simply to investigate the private affairs of a citizen. See Pls.’ Stmt. at 9, 11. This argument fares no better than Plaintiffs’ first.

More than a century ago, in *Kilbourn v. Thompson*, the Supreme Court stated that Congress does not possess “the general power of making inquiry into the private affairs of the citizen.” 103 U.S. 168, 190 (1880). In the ensuing decades, the Supreme Court repeatedly has affirmed that constraint on Congress’s investigative powers. *See, e.g., McGrain, 273 U.S. at 173–74; Quinn, 349 U.S. at 161; Eastland, 421 U.S. at 504 n.15.* But *Kilbourn* is the high-water mark for that limiting principle. In the nearly 140 years since *Kilbourn*, neither the Supreme Court nor any circuit court has found a congressional investigation unconstitutional because it invades the “private affairs of the citizen.” Indeed, years later, in the context of warning courts to be wary of declaring a congressional inquiry unconstitutional, the Supreme Court acknowledged *Kilbourn*’s shortcomings:

Experience admonishes us to tread warily in this domain. The loose language of *Kilbourn v. Thompson*, 103 U.S. 168, the weighty criticism to which it has been subjected, *see, e.g.*, Fairman, Mr. Justice Miller and the Supreme Court, 332–334; Landis, *Constitutional Limitations on the Congressional Power of Investigation*, 40 HARV. L. REV. 153, the inroads that have been made upon that case by later cases, *McGrain v. Daugherty*, 273 U.S. 135, 170–171, and *Sinclair v. United States*, 279 U.S. 263, strongly counsel abstention from adjudication unless no choice is left.

Rumely, 345 U.S. at 46 (alternations added). Accordingly, although the notion from *Kilbourn* that Congress does not have the general power to investigate into personal affairs remains alive today, the case is largely impotent as a guiding constitutional principle. *See* Landis, 40 HARV. L. REV. at 220 (“But no standard for judgment can be developed from *Kilbourn v. Thompson*. Its result contradicts an unbroken Congressional practice continuing even after the decision, with the increasing realization that committees of inquiry are necessary in order to make government effectively responsible to the electorate.”).

How then to measure whether Congress has ventured into impermissible territory of investigating the personal affairs of a private citizen? The Supreme Court has provided some guidance. In *Quinn*, the Court said that Congress cannot use its investigative power “to inquire into private affairs *unrelated* to a valid legislative purpose.” 349 U.S. at 161 (emphasis added). Similarly, in *Watkins*, the Court stated that: “The public is, of course, entitled to be informed concerning the workings of its government. That cannot be inflated into a general power to expose where *the predominant result can only be* an invasion of the private rights of individuals.” 354 U.S. at 200 (emphasis added). Thus, the question the court must ask is whether the Oversight Committee’s investigation into the President’s personal affairs is fully divorced from any legislative purpose.

Indulging in the presumption that when Congress acts it does so for a proper reason, the court cannot say that the records sought from Mazars are “unrelated to a valid legislative purpose” or that the “predominant result can only be an invasion of” the President’s private affairs. As discussed above, legislation could stem from the Oversight Committee’s investigation of the President’s personal and corporate finances and the possible conflicts of interest under which he is operating. Thus, the potential presence of some intent to “ridicule, harass, or punish” the President cannot overcome this facially valid legislative purpose. *McSurely*, 521 F.2d at 1038.

In their Complaint and in their supplemental evidentiary submissions, Plaintiffs reference various statements from Democratic Members of Congress and congressional aides to the effect that Democrats are intending to use their subpoena power to exact political retribution. *See* Compl. ¶¶ 27–30; *see also* First Supp. Decl. at 35–79. For instance, one Congressman is quoted as saying, “We’re going to have to build an air traffic control tower to keep track of all the subpoenas flying from here to the White House.” Compl. ¶ 29. Another unnamed Democratic official said that

House Democrats were preparing a “subpoena cannon” to fire at the President. *Id.* Plaintiffs urge that these and similar statements reveal that the Democrats’ true motive is to embarrass and harass the President, which cannot be cured by the Committee’s “retroactive rationalizations” in the April 12th Memorandum. Hr’g Tr. at 8.

Even if the court were to take these statements at face value—at best, a dubious evidentiary proposition given that these individuals do not control the actions of the Oversight Committee—they make no material difference. The case law makes clear that “motives alone would not vitiate an investigation which had been instituted by a House of Congress if that assembly’s legislative purpose is being served.” *Watkins*, 354 U.S. at 200. In *Watkins*, the petitioner “marshalled an impressive array of evidence that some Congressmen have believed that” their duty “was to bring down upon himself and others the violence of public reaction because of their past beliefs, expressions and associations.” *Id.* at 199. This evidence did not, however, carry the day with the Supreme Court because Congress also had a legitimate legislative purpose for its investigation. *Id.* at 200. Likewise, in *McGrain*, the Court rejected a lower court’s decision echoing the arguments Plaintiffs advance here: “The extreme personal cast of the original resolutions; the spirit of hostility towards the then Attorney General which they breathe; that it was not avowed that legislative action was had in view until after the action of the Senate had been challenged; and that the avowal then was coupled with an avowal that other action was had in view—are calculated to create the impression that the idea of legislative action being in contemplation was an afterthought.” *McGrain*, 273 U.S. at 176. The Court held that the lower court was “wrong,” because “the subject [of the investigation] was one on which legislation could be had.” *Id.* at 177.

In short, as long as there is a facially valid legislative purpose for the investigation, Congress acts within its constitutional authority. That is the case here.²⁷

3. *Pertinency of the Records Request*

Plaintiffs' third and final challenge rests on the "pertinency" of the records requested from Mazars. *See* Pls.' Reply at 12–14. This argument takes multiple forms, none of which are persuasive.

To begin, according to Plaintiffs, for the Mazars subpoena to be valid the records sought must be ““reasonably relevant” to [the subpoena’s] legitimate legislative purpose,” and the records demanded fail that test. *Id.* at 13 (citing *McPhaul*, 364 U.S. at 381–82). This argument suffers from two problems. The first is that Plaintiffs conflate the concept of “pertinency” with the notion of “relevancy” as used in civil proceedings. “Pertinency” does not require the court to ask, as it would in a civil discovery dispute, whether the documents requested are likely to yield useful evidence. Instead, pertinency “is a jurisdictional concept . . . drawn from the nature of a congressional committee’s source of authority.” *Watkins*, 354 U.S. at 206. The concept appears most often in the context of a *criminal* conviction for contempt of Congress, in which a person has refused to comply with a subpoena or answer questions posed at a hearing. Pertinency, in this setting, is an element of criminal contempt. *See* 2 U.S.C. § 192 (making it a misdemeanor for a person summoned as a witness before Congress either to not appear or, if “having appeared, [to] refuse[] to answer any question *pertinent* to the question under inquiry . . .”)) (emphasis added). The pertinency inquiry therefore asks whether the question posed to a witness is one that fell within

²⁷ For this same reason, the forceful dissenting statements of the Ranking Member of the Oversight Committee, Congressman Jim Jordan, do not change the court’s calculus. The Ranking Member views the Committee’s investigation as without legislative purpose, and its sole design to harass and embarrass the President. *See* Second Decl. of William S. Consovoy, ECF No. 34; Ex. B, Letter from the Honorable Jim Jordan, Ranking Member, House Comm. on Oversight & Reform, to the Honorable Elijah E. Cummings, Chairman, House Comm. on Oversight & Reform (May 15, 2019). But, again, so long as lawmaking could follow from the Committee’s investigation, any attendant political purpose does not make the inquiry unconstitutional.

the scope of the Committee's investigative authority, which typically is defined by the resolution authorizing the investigation. *See Watkins*, 354 U.S. at 207–10; *Sinclair*, 279 U.S. at 292 (stating that, under the contempt statute, “a witness rightfully may refuse to answer where the bounds of the power are exceeded or where the questions asked are not pertinent to the matter under inquiry”). This is not a contempt case and therefore the pertinency inquiry, properly understood, has no role here.

But even if the court were to treat pertinency as akin to a relevance determination, that test is satisfied here. The standard adopted by the Supreme Court is a forgiving one. The subpoenaed records need only be “not plainly incompetent or irrelevant to any lawful purpose [of the Committee] in the discharge of its duties.” *McPhaul*, 364 U.S. at 381 (cleaned up). Here, the Oversight Committee has shown that it is not engaged in a pure fishing expedition for the President’s financial records. It is undisputed that the President did not initially identify as liabilities on his public disclosure forms the payments that Michael Cohen made to alleged mistresses during the presidential campaign.²⁸ Furthermore, Michael Cohen has pleaded guilty to campaign finance violations arising from those payments.²⁹ These events, when combined with Cohen’s testimony and the financial statements he supplied, make it reasonable for the Oversight Committee to believe that the records sought from Mazars might reveal other financial transgressions or improprieties. As already discussed, it is not unreasonable to think that the Mazars records might assist Congress in determining whether ethics statutes or regulations need updating to strengthen Executive Branch accountability, promote transparency, and protect against Executive Branch officials operating under conflicts of interest. Additionally, the Mazars records

²⁸ Letter from David J. Apol, *supra* n.10.

²⁹ See Mark Mazzetti, et al., *Cohen Pleads Guilty and Details Trump’s Involvement in Moscow Tower Project*, N.Y. TIMES, Nov. 29, 2018, <https://www.nytimes.com/2018/11/29/nyregion/michael-cohen-trump-russia-mueller.html> (last visited May 20, 2019).

could provide the Oversight Committee with clues about the President’s foreign interests or sources of foreign income, if any, which would assist in determining Congress’s obligations under the Foreign Emoluments Clause. This concern is not a new one. In other letters seeking records, one sent to the Trump Organization and the other to the GSA, Chairman Cummings expressly stated that the records sought would be useful in assessing the President’s compliance with the Foreign Emoluments Clause. *See* n. 7 & 8, *supra*. The records from Mazars likewise could advance this legislative purpose. Pertinency, to the extent it may apply, is thus satisfied.

Two more arguments remain. First, Plaintiffs insist that the Oversight Committee cannot be seeking pertinent material because the legislative actions contemplated “extend to an area in which Congress is forbidden to legislate,” *Quinn*, 349 U.S. at 161. *See* Pls.’ Reply at 15–16. For example, Plaintiffs argue that H.R. 1 is unconstitutional insofar as it adds qualifications for the presidency beyond those contained in Article II of the Constitution. *See id.* at 16. More broadly, Plaintiffs maintain that *any* regulation of the “President’s finances or conflicts of interest” would be unconstitutional for the same reason. *Id.*

Plaintiffs’ contention flies in the face of decades of legislation covering the President. For example, the Ethics in Government Act requires the President to report the source, type, and amount of certain income and assets to the Office of Government Ethics. *See* 5 U.S.C. App. 4 §§ 101(a), (f); *id.* §§ 102(a), (b); *id.* § 103(b). The Stop Trading on Congressional Knowledge Act of 2012 provides that no “executive branch employee,” including the President, may use “nonpublic information derived from such person’s position” “as a means for making a private profit,” and further states that “executive branch employees,” including the President, “owe[] a duty arising from a relationship of trust and confidence to the United States Government and the citizens of the United States with respect to material, nonpublic information derived from [their]

position.” Pub. Law No. 112-105 § 9. And, the Presidential Records Act “directs the President to ‘take all such steps as may be necessary to assure that the activities, deliberations, decisions, and policies that reflect the performance of his constitutional, statutory, or other official or ceremonial duties are adequately documented and that such records are maintained as Presidential records.’” *Armstrong v. Bush*, 924 F.2d 282, 285 (D.C. Cir. 1991) (citing 44 U.S.C. § 2203). Plaintiffs’ argument, if accepted, would wipe out some, and perhaps all, of these statutes.

But there is an even more fundamental problem with Plaintiffs’ position. It is not the court’s role in this context to evaluate the constitutionality of proposed or contemplated legislation. Doing so would go beyond its limited powers. The Supreme Court said as much in *Rumely*: “Whenever constitutional limits upon the investigative power of Congress have to be drawn by this Court, it ought only to be done after Congress has demonstrated its full awareness of what is at stake by unequivocally authorizing an inquiry of dubious limits. Experience admonishes us to tread warily in this domain.” 345 U.S. at 46. Consequently, courts must avoid declaring an investigation by Congress unconstitutional, unless “no choice is left.” *See id.* In this case, not only is there no need to confront difficult constitutional questions, it would be improper to do so. Federal courts do not “render advisory opinions. For adjudication of constitutional issues ‘concrete legal issues, presented in actual cases, not abstractions’ are requisite.” *United Pub. Workers of Am. (C.I.O.), et al., v. Mitchell, et al.*, 330 U.S. 75, 89 (1947) (citations omitted). The court here faces only abstract constitutional questions about prospective legislation that is not yet law. The court cannot declare a congressional investigation unconstitutional in such ill-defined circumstances.³⁰

³⁰ The D.C. Circuit’s decision in *Tobin* does not compel a different result. 306 F.2d 270 (D.C. Cir. 1962). If anything, *Tobin* advises courts to sidestep important constitutional issues unless squarely presented and unavoidable. In *Tobin*, the setting was review of a contempt conviction, which the Circuit found “is not the most practical method of inducing courts to answer broad questions broadly.” 306 F.2d at 274. This case is even less amenable to resolving an important

Finally, Plaintiffs suggest that the court has the authority to “narrow overbroad [congressional] subpoenas,” and should consider doing so here. Pls.’ Reply at 13. But the federal courts enjoy no such power. “A legislative inquiry may be as broad, as searching, and as exhaustive as is necessary to make effective the constitutional powers of Congress.” *Townsend*, 95 F.2d at 361 (citation omitted). “There is no requirement that every piece of information gathered in such an investigation be justified before the judiciary.” *McSurely*, 521 F.2d at 1041. The court therefore cannot “engage in a line-by-line review” of the Mazars subpoena and narrow its demands. *Bean LLC*, 291 F. Supp. 3d at 44; *see also Senate Select Committee on Ethics v. Packwood*, 845 F. Supp. 17, 20 (D.D.C. 1994) (“This [c]ourt . . . has no authority to restrict the scope of the Ethics Committee’s investigation.”).

V. REQUEST FOR STAY PENDING APPEAL

At the May 14th oral argument, Plaintiffs asked the court to stay the return date of the subpoena beyond the seven days already agreed upon by the parties, pending final appellate review by the D.C. Circuit. *See Hr’g Tr.* at 77–78. The court declines to do so.

Federal Rule of Civil Procedure 62(c) authorizes a district court to issue an injunction pending appeal. Fed. R. Civ. P. 62(c). To obtain a stay pending appeal, the moving party “must establish [1] that he is likely to succeed on the merits, [2] that he is likely to suffer irreparable harm in the absence of preliminary relief, [3] that the balance of equities tips in his favor, and [4] that an injunction is in the public interest.” *See Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008); *accord Cuomo v. U.S. Nuclear Regulatory Comm’n*, 772 F.2d 972, 974 (D.C. Cir. 1985) (per curiam) (citing *Wash. Metro. Area Transit Comm’n v. Holiday Tours, Inc.*, 559 F.2d 841, 843

constitutional issue than *Tobin*. There is no conviction or piece of legislation before the court to evaluate. Assessing the constitutionality of a not-yet-enacted statute would be the equivalent of answering a hypothetical question on a law school exam. This court cannot engage in such an exercise.

(D.C. Cir. 1977)). The court balances these factors on a “sliding scale,” such that “a strong showing on one factor could make up for a weaker showing on another.” *Sherley v. Sebelius*, 644 F.3d 388, 392 (D.C. Cir. 2011); *see also Cigar Ass’n of Am. v. U.S. Food & Drug Admin.*, 317 F. Supp. 3d 555, 560 (D.D.C. 2018).

As to the first factor, Plaintiffs have not shown that their challenge to the Mazars subpoena presents “serious legal questions going to the merits, so serious, substantial, difficult as to make them a fair ground of litigation and thus for more deliberative investigation.” *Population Inst. v. McPherson*, 797 F.2d 1062, 1078 (D.C. Cir. 1986) (quoting *Holiday Tours*, 559 F.2d at 844). None of the three grounds upon which Plaintiffs challenge the subpoena rests on “potentially persuasive authority.” *John Doe Co. v. Consumer Financial Protection Bureau*, 849 F.3d 1129, 1131 (D.C. Cir. 2017). Indeed, Plaintiffs have cited no case since *Kilbourn* from 1880 in which the Supreme Court or the D.C. Circuit has interfered with a congressional subpoena—because it either intrudes on the law enforcement prerogatives of the Executive or Judicial branches, seeks personal information unrelated to a legislative purpose, or demands records that lack “pertinency.” This case does not merit becoming the first in nearly 140 years.³¹

As for irreparable harm, this court has recognized that “the disclosure of confidential information is, by its very nature, irreparable ‘because such information, once disclosed, loses its confidential nature.’” *Robert Half Int’l Inc. v. Billingham*, 315 F. Supp. 3d 419, 433 (D.D.C. 2018) (citations omitted). That concern is somewhat mitigated here, however, because of the recipient of the records. Unlike *Robert Half Int’l*, where the challenged disclosure was to a market competitor, the disclosure here is made to Congress, and the D.C. Circuit has held that “courts

³¹ This case is unlike *Eastland* in which the D.C. Circuit by a 2-1 margin granted a stay to enforce subpoenas issued by Congress. *See United States Servicemen’s Fund v. Eastland*, 488 F.2d 1252, 1256–57 (D.C. Cir. 1974), rev’d on other grounds, *Eastland*, 421 U.S. at 491. The court granted the stay because the case presented “serious constitutional questions” *Id.* at 1256. No such “serious constitutional questions” are presented here.

must presume that the committees of Congress will exercise their powers responsibly and with due regard for the rights of affected parties.” *Exxon*, 589 F.2d at 589 (citation omitted). That said, the court is not naïve to reality—a reality confirmed by the fact that the Oversight Committee has said that the decision whether to make the records public lies within its discretion. *See Hr’g Tr.* at 59. Thus, there is a chance that some records obtained from Mazars will become public soon after they are produced. The second factor of irreparable harm therefore favors a stay.

The final two factors—the balance of equities and the public interest—merge when, as here, “the Government is the opposing party.” *Nken v. Holder*, 556 U.S. 418, 435 (2009). These factors tip the balance in favor of denying a stay. In *Exxon*, the plaintiff had challenged Congress’s right to obtain records from the Federal Trade Commission that contained its trade secrets. 589 F.2d at 586–87. The district court denied the plaintiff’s request for injunctive relief. In affirming that decision on appeal, the D.C. Circuit held that the public interest favored Congress having access to the records. The court stated that the plaintiff’s burden to obtain injunctive relief was “considerably heightened by the clear public interest in maximizing the effectiveness of the investigatory powers of Congress . . . It would, then, require an extremely strong showing by the appellants to succeed in obtaining an injunction in light of the compelling public interest *in denying such relief.*” *Id.* at 594 (emphasis added). The court concluded: “To grant the injunction appellants request, this court would be required to interfere with the operation of Congress, and also to depart from traditional doctrine concerning the availability of equitable relief.” *Id.* The same would be true in this case.³²

³² The court acknowledges that this case differs from *Exxon* in one respect. Unlike *Exxon*, this case does involve records whose public disclosure might give rise to “private injury.” 589 F.2d at 594. It is unclear, however, what proportion of the records at issue in this case are truly “personal,” as opposed to corporate records. The fact of some uncertain amount of private injury does not change the court’s calculus.

The court is well aware that this case involves records concerning the private and business affairs of the President of the United States. But on the question of whether to grant a stay pending appeal, the President is subject to the same legal standard as any other litigant that does not prevail. Plaintiffs have not raised a “serious legal question[] going to the merits.” *Population Inst.*, 797 F.2d at 1078. And, the balance of equities and the public interest weigh heavily in favor of denying relief. The risk of irreparable harm does not outweigh these other factors. The court, therefore, will not stay the return date of the subpoena beyond the seven days agreed upon by the parties.

VI. CONCLUSION

For the foregoing reasons, the court will enter judgment in favor of the House Oversight Committee and against Plaintiffs. The court denies Plaintiffs’ request for a stay pending appeal. A separate final order accompanies this Memorandum Opinion.

Dated: May 20, 2019



Amit P. Mehta
United States District Court Judge

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

DONALD J. TRUMP; THE TRUMP
ORGANIZATION, INC.; TRUMP
ORGANIZATION LLC; THE TRUMP
CORPORATION; DJT HOLDINGS LLC;
THE DONALD J. TRUMP REVOCABLE
TRUST; and TRUMP OLD POST OFFICE
LLC,

Plaintiffs,

v.

MAZARS USA LLP,

Defendant,

and

COMMITTEE ON OVERSIGHT AND
REFORM OF THE U.S. HOUSE OF
REPRESENTATIVES,

Intervenor-Defendant.

Civil Action No. 1:19-cv-01136-APM

NOTICE OF APPEAL

Plaintiffs (Donald J. Trump; The Trump Organization, Inc.; Trump Organization LLC; The Trump Corporation; DJT Holdings LLC; The Donald J. Trump Revocable Trust; and Trump Old Post Office LLC) hereby appeal to the U.S. Court of Appeals for the D.C. Circuit all aspects of this Court's order and opinion from May 20, 2019, which overruled Plaintiffs' objections to Rule 65(a)(2) consolidation, treated the parties' preliminary-injunction filings as cross-motions for summary judgment, entered final judgment against Plaintiffs, and denied Plaintiffs' request for a stay pending appeal. *See* Dkt. 36; 35.

Respectfully submitted,

Dated: May 21, 2019

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CERTIFICATE OF SERVICE

I certify that on May 21, 2019, I filed this notice via the CM/ECF system, which will notify all counsel in this case.