[ORAL ARGUMENT HELD ON JULY 12, 2019]

No. 19-5142

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

DONALD J. TRUMP, et al.,

Plaintiffs-Appellants,

v.

MAZARS USA LLP,

Defendant-Appellee,

and

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

Intervenor-Defendant-Appellee.

On Appeal from a Final Order of the U.S. District Court for the District of Columbia (No. 1:19-cv-01136) (Hon. Amit P. Mehta, U.S. District Judge)

RESPONSE BRIEF FOR THE COMMITTEE ON OVERSIGHT AND REFORM OF THE U.S. HOUSE OF REPRESENTATIVES TO THE AMICUS CURIAE BRIEF FOR THE UNITED STATES

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GLOSSARY

Department	U.S. Department of Justice
IRS	Internal Revenue Service
JA	Joint Appendix
Mr. Trump	Plaintiffs-appellants Donald J. Trump (in his individual capacity), Trump Organization, Inc., Trump Organization, LLC, Trump Corporation, DJT Holdings, LLC, Donald J. Trump Revocable Trust, and Trump Old Post Office LLC
Oversight Committee	Committee on Oversight and Reform of the U.S. House of Representatives

INTRODUCTION

The Department of Justice's amicus brief posits, with no grounding in history or law, an astounding and novel theory of limited Congressional power to conduct investigations and oversight. The Constitution vests Congress with "[a]ll legislative Powers," U.S. Const., Art. I, § 1, and charges the President with the duty to "take Care that the Laws be faithfully executed," U.S. Const., Art. II, § 3. These powers are separate, as the Department repeatedly emphasizes. But they are also part of "the balanced power structure of our Republic," *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579, 634 (1952) (Jackson, J., concurring), which the Department overlooks.

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

Without acknowledging this history, the Department urges this Court to intrude on the U.S. House of Representatives' exercise of its Article I power in ways that are flatly inconsistent with Supreme Court precedent. The Department contends

(at 1-2) that the Court should engage in a "searching evaluation" of whether the Committee on Oversight and Reform (Oversight Committee) has a legitimate legislative purpose and employ "especially demanding inquiries" to determine whether the subpoenaed information is sufficiently "important to Congress's investigation." The Department insists (at 2) that the House must "clearly authorize" a subpoena seeking information concerning the President and identify with "sufficient particularity the subject matter of potential legislation." These arguments are fabricated out of whole cloth: they may represent what the Department wishes the law were, but they are not the law.

The Department contends (at 1) that these unprecedented restrictions on Congress are warranted because—in the Department's view—the Oversight Committee's subpoena might harass the President. This argument disregards the Constitution's *balance* of powers, as well as the facts here, which establish that the subpoena does not actually intrude on the President's exercise of his official duties. This suit was initiated by Mr. Trump (*not* the Oversight Committee) in his individual (*not* official) capacity to enjoin the production of non-privileged material held by a third party. This case presents no basis for this Court to impose sweeping new limitations on Congress's core constitutional powers.

ARGUMENT

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

As the Oversight Committee established in its principal brief (at 1, 24-28), "[a] legislative body cannot legislate wisely or effectively in the absence of information respecting the conditions which the legislation is intended to affect or change." *McGrain*, 273 U.S. at 175. The Supreme Court has thus stressed that Congress's power to investigate "is broad." *Watkins v. United States*, 354 U.S. 178, 187 (1957).

The Department suggests that these principles do not apply equally when Congress examines the President's actions or information. This case does not present those separation-of-powers issues, as discussed below. But even if it did, the Department's arguments are belied by history: past Presidents have long been subject to Congressional investigations. Where appropriate, Presidents have at times raised executive privilege and other claims in efforts to protect information. Here, however, the Department asks this Court to go beyond that noncategorical privilege and create new constitutional doctrine insulating the President from Congressional oversight based entirely on generalized separation-of-powers principles.

1. Throughout history, Congress has investigated and conducted oversight of Presidents in matters both official and personal—including conduct of wars,

corruption, and financial affairs.[1] This practice is not simply of historical interest; it informs the proper interpretation of our Constitution. *Mistretta v. United States*, 488 U.S. 361, 398-404 (1989). As the following illustrative examples show, Presidents from George Washington on (unlike Mr. Trump) have understood that Congress has the power to conduct investigations and oversight of the President as part of the constitutional design:

- ***St. Clair Investigation:*** In 1792, the House established a committee to investigate the failure of Major General Arthur St. Clair's expedition, authorizing it to "call for such persons, papers, and records, as may be necessary to assist its inquiries." 3 *Annals of Cong.* 493 (1792). After the committee sought documents from the Secretary of War, President Washington determined that the inquiry was proper but that requests for "papers [that] were under the President alone" should be made by the House to the President, who should release such papers "as the public good would permit." 1 *Writings of Thomas Jefferson* 304 (Albert Bergh, ed. 1903); 3 *Annals of Cong.* 536 (1792) (resolving "[t]hat the President of the United States" cause production of necessary public papers).
- ***Secretary Webster Investigation:*** In 1846, the House investigated the "fraudulent misapplication and personal use of public funds" by Secretary of

[1] S*ee generally Congress Investigates 1792-1974* (Arthur M. Schlesigner, Jr. & Roger Bruns eds., 1975) (*Congress Investigates*).

State Daniel Webster during President Tyler's Administration. *Cong. Globe*, 29th Cong., 1st Sess. 636 (1846); *id.* at 643 (calling for the President to furnish documents to the House). Former President Tyler provided deposition testimony to the committee. H. Rep. No. 29-684, at 2, 8-11 (1846) (testifying concerning $15,000 the President made available to Webster).

- ***President Buchanan Investigation:*** In 1860, the House established a committee to investigate, among other issues, "whether the President of the United States [Buchanan] … has, by money, patronage, or other improper means, sought to influence the action of Congress." *Cong. Globe*, 36th Cong., 1st Sess. 997 (1860); *id.* at 998. The committee received testimony about the President's personal correspondence with the former Governor of Kansas. H. Rep. No. 36-648, at 112-113 (1860).

- ***Civil War Investigation:*** In 1861, Congress established a joint committee "to inquire into the conduct" of the ongoing Civil War. *Cong. Globe*, 37th Cong., 2d Sess. 32, 40 (1861). The committee investigated President Lincoln's conduct of the war, including his selection of military commanders, and the President lamented that the committee's "greatest purpose seems to be to hamper my action and obstruct the military operations." *Recollected Words of Abraham Lincoln* 288 (Don E. Fehrenbacher & Virginia Fehrenbacher eds., 1996). Yet President Lincoln met personally

with the committee during the investigation. Bruce Tap, *Over Lincoln's Shoulder: The Committee on the Conduct of the War* 105-07 (1998); Elisabeth Joan Doyle, *The Conduct of the War, 1861*, *in Congress Investigates* 75 ("There seems to have been no time when any individual member of the Joint Committee on the Conduct of the War requested an interview with the President and was denied it.").

- ***Pearl Harbor Investigation*:** In 1945, Congress established a joint committee to investigate the attack on Pearl Harbor. S. Con. Res. 27, 79th Cong. (1945). President Truman issued a memorandum instructing the relevant military departments to provide the committee with "any information they may have on the subject of the inquiry." S. Rep. No. 79-244, at 286 (1946). President Truman promised that if the committee had "any difficulty" obtaining files from the prior Administration of President Franklin Roosevelt, he would "be glad to issue the necessary order so that [the committee] may have complete access." *Id.* at 285.
- ***President Nixon's Tax Returns:*** In 1973 and 1974, the Joint Committee on Taxation investigated President Nixon's tax returns for the years 1969 to 1972 and the Internal Revenue Service's auditing of those returns. S. Rep. No. 93-768 (1974). President Nixon agreed to make his returns for those years available to the committee, which used its statutory authority to obtain additional documents from the IRS, including certified copies of President

Nixon's returns, the President's returns from prior years, and returns of President Nixon's family members.[2]

- ***Iran-Contra Investigation*:** In 1987, during the Iran-Contra investigation, Congress obtained numerous documents with the assistance of President Reagan. H. Rep. No. 100-433, xv (1987). "The President cooperated with the investigation. He did not assert executive privilege; he instructed all relevant agencies to produce their documents and witnesses; and he made extracts available from his personal diaries[.]" *Id.* at xvi.
- ***Whitewater Investigation:*** In 1995, the Senate established a committee to investigate the Whitewater Development Corporation (in which President Clinton and First Lady Hillary Clinton were involved before he assumed office), including whether White House officials improperly handled documents. S. Res. 120, 104th Cong. (1995); S. Rep. No. 104-280 (1996). The committee heard testimony from the Clintons' long-time personal accountant,[3] subpoenaed documents relating to Mrs. Clinton's law-firm billing records, which were discovered in the White House Residence,[4]

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

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

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

subpoenaed third-party telephone records for calls from the White House,[5] and received testimony from the Clintons' personal attorney.[6]

The Department would have this Court disregard this extensive historical practice of Congressional investigation and oversight of Presidents in their official and personal capacities. *NLRB v. Noel Canning*, 573 U.S. 513, 525 (2014) ("longstanding practice of the government, can inform our determination of what the law is" (quotation marks omitted)).

2. The Department's separation-of-powers argument also elides (at 5) the point that a sitting President "is subject to judicial process in appropriate circumstances." *Clinton*, 520 U.S. at 703. In *Clinton*, the Supreme Court rejected the argument that separation-of-powers principles protect a sitting President from suit for private conduct: that a suit "may significantly burden the time and attention of the Chief Executive is not sufficient to establish a violation of the Constitution." *Id.*; *see also id.* at 704 ("President Monroe responded to written interrogatories," "President Ford complied with an order to give a deposition in a criminal trial," and "President Clinton has twice given videotaped testimony in criminal proceedings"). The Supreme Court similarly required President Nixon to comply with a subpoena to

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

[6] *Depositions Before the Special Comm. to Investigate Whitewater Dev. Corp. and Related Matters*, S. Hrg. 104-869, Vol. XV, 2439 (1996) (deposition of David Kendall); *Hearings Before the Special Comm. to Investigate Whitewater Dev. Corp. and Related Matters*, S. Hrg. 104-869, Vol. XII, 1474 (1996) (testimony of David Kendall).

produce certain tapes of his conversations with aides. *United States v. Nixon*, 418 U.S. 683, 706 (1974). Although those cases involved judicial process, the same considerations apply to Congressional investigations.

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

Presidents do not need the courts to invent new theories to thwart Congress's exercise of its constitutional responsibilities; Presidents already have protection from Congressional overreach. In addition to using his robust political tools, a President may—in an appropriate case—claim executive privilege, *Nixon*, 418 U.S. at 711-13, or seek protection from a subpoena that actually impedes the "performance of [his] constitutional duties," *Cheney v. U.S. Dist. Court for D.C.*, 542 U.S. 367, 382 (2004). Tellingly, the Department does not raise those arguments here because the

[7] The House Committee on the Judiciary is investigating whether to recommend articles of impeachment against President Trump. Compl. ¶ 1, *Committee on the Judiciary v. McGahn*, No. 19-2379 (D.D.C. Aug. 7, 2019). Under House Rule X.4(c)(2), information obtained by the Oversight Committee relevant to the impeachment investigation will be shared with the Judiciary Committee.

information sought is not privileged, and Mazars's response to the subpoena will not prevent the President "from accomplishing [his] constitutionally assigned functions." *Nixon v. Administrator of Gen. Serv.*, 433 U.S. 425, 443 (1977). Nor does the President claim any national-security (or other governmental) interest in Mazars's records that might, as the Department suggests (at 8), justify a "negotiation-and-accommodation process" as in *United States v. AT&T*, 551 F.2d 384 (D.C. Cir. 1976).

Instead, the Department urges (at 4-8) that the President is entitled to special solicitude under separation-of-powers principles. But the Oversight Committee's subpoena is an exercise of the House's Article I power and not an attempt to usurp Executive power. It therefore does not raise the separation-of-powers concerns presented in *Bowsher v. Synar*, 478 U.S. 714, 726 (1986), where Congress effectively "reserve[d] … control over the execution of the laws," or in *Free Enterprise Fund v. PCAOB*, 561 U.S. 477 (2010), where Congress limited the President's power to remove inferior officers. As this Court observed in *AT&T*, even cases deferring to Executive action in foreign affairs "do not establish judicial deference to executive determinations in the area of national security *when the result of that deference would be to impede Congress in exercising its legislative powers*." 551 F.2d at 392 (emphasis added).

The Department misleadingly quotes *In re Trump*, 928 F.3d 360 (4th Cir. 2019), for the proposition that a "congressional investigation into the President's personal financial affairs 'could result in an unnecessary intrusion into the duties and affairs of a sitting President.'" DOJ Br. 6 (quoting *In re Trump*, 928 F.3d at 368). That case

involves a suit by Maryland and the District of Columbia against the President in his official and individual capacities and *not* any "congressional investigation." The Fourth Circuit referred to "unnecessary intrusion" in explaining that proceeding in district court before appellate resolution of controlling questions could render any discovery "unnecessary"—not, as the Department implies, that a Congressional investigation of the President's finances is improperly intrusive. 928 F.3d at 368.

This case—unlike a suit filed against the President—is unlikely to occupy any significant amount of the President's time.[8] And the Department's speculation (at 6) that "successive subpoenas" might "harry the President" provides no ground for relief here. If Congress were to later issue abusive subpoenas, the courts could address those subpoenas as appropriate.

The Department mistakenly argues (at 7) that *Judicial Watch, Inc. v. U.S. Secret Service*, 726 F.3d 208 (D.C. Cir. 2013), supports the proposition that a subpoena to a third party is effectively "no different from one served on the President." In *Judicial Watch*, this Court prevented "disclosure of the President's calendars" indirectly under the Freedom of Information Act, explaining that "[t]here is good reason to doubt that

[8] *In re Trump*, No. 19-5196, 2019 WL 3285234 (D.C. Cir. July 19, 2019) (per curiam), did not—as the Department states (at 7)—"recogniz[e] that third-party discovery requests by members of Congress … raise[] separation-of-powers concerns." Instead, the Court expressed concern that the district court had not considered alternatives to discovery, including "more limited discovery" on threshold issues, "given the separation of powers issues present in a lawsuit brought by members of the Legislative Branch *against the President of the United States*" in his official capacity. *Id.* at *1 (emphasis added).

Congress intended to require" the disclosure "in this roundabout way" where Congress's exclusion of the President's papers was "quite intentional." 726 F.3d at 225 (emphasis added). Here, there is no "end run[]" around a federal statute, *id.*—the Oversight Committee is exercising its constitutional power to seek non-privileged documents from a third-party custodian that do not relate to "'the day-to-day operations of the President,'" *id.* at 228. The separation-of-powers concerns in *Judicial Watch* do not apply to these personal business records.

The President is also protected by existing limitations on Congressional investigations; there is no need for this Court to create new ones. Congress must have a legitimate legislative purpose and cannot engage in law enforcement or exposure when the result can only invade individuals' private rights. Comm. Br. 29-30 (citing *Quinn v. United States*, 349 U.S. 155, 161 (1955), and *Watkins*, 354 U.S. at 200). None of these limitations is at issue here, as the Oversight Committee explained. *Id.* at 29-35, 44-45.

II. THE OVERSIGHT COMMITTEE'S SUBPOENA IS AUTHORIZED AND VALID, AND THE DEPARTMENT'S NEWLY PROPOSED LIMITATIONS ON CONGRESSIONAL AUTHORITY ARE WRONG

The Department urges (at 9, 14) this Court to create a demanding test that would limit Congressional investigations relating to the President by requiring the House or committee to identify the legislative purpose "with sufficient particularity," such that courts could "concretely review the validity of any potential legislation" and

determine whether the information "is pertinent and necessary." The Department cites no law supporting this novel concept because there is none.[9]

This invented test is inconsistent with Supreme Court precedent, the proper role of the courts and Congress, and the reality of Congressional investigations. The additional justification that the Department demands would significantly delay Congressional investigations and the receipt of material needed to consider urgent legislation. That justification is not necessary to resolve whether a Congressional subpoena is valid under applicable law. And the Department's invocation of constitutional avoidance is sorely misplaced because its test would significantly intrude on Congress's authority.

The Oversight Committee's subpoena was properly authorized under House Rules when issued, and the Department does not argue otherwise. Exercising its authority under the Rulemaking Clause, U.S. Const., Art. I, § 5, cl. 2, the House delegated to its committees authority to conduct investigations and issue subpoenas. Even if a House resolution were required, the Department recognizes (at 16) that House Resolution 507, 116th Cong. (2019), "clearly authorizes the Committee's subpoena" at issue here.

[9] *Dellmuth v. Muth*, 491 U.S. 223, 231 (1989), required Congress to speak with "unmistakable clarity" before abrogating State sovereign immunity by statute. Those considerations are not present here.

The Department only takes issue with that resolution (at 16) insofar as it authorizes "*future* investigations." That the House has elected to exercise its Article I authority to authorize future subpoenas seeking information concerning the President only underscores that the House already understood the committees to have such power. Moreover, the resolution expressly requires committees to act pursuant to their respective jurisdictions, and they must otherwise comply with House Rules. It would obviously be wrong for this Court to quash the current subpoena to Mazars simply because Congress has chosen to provide authorization for future subpoenas. The Court should not prejudge future investigations and whether they would present any of the Department's concerns. *Cf. Lucia v. SEC*, 138 S. Ct. 2044, 2055 n.6 (2018).

The Department's contention (at 17) that the House should identify potential legislation with particularity misunderstands that "[t]he very nature of the investigative function," like any research, can involve some "nonproductive enterprises." *Eastland v. U.S. Servicemen's Fund*, 421 U.S. 491, 509 (1975). The Department's test is at odds with the Supreme Court's express recognition that legislatures need facts to legislate wisely—facts that are frequently obtained through investigations. *McGrain*, 273 U.S. at 175. And legislative proposals may develop during an investigation in response to the information obtained.

Even if the Department were correct (at 16-17) that a clear statement is needed before Congress can seek information concerning the President, that has been satisfied here: Chairman Cummings's April 12, 2019 memorandum establishes that

the Oversight Committee seeks information concerning the President, JA104-07, the subpoena itself requests such information, JA26, and the House has since "clearly authorize[d]" this subpoena, as the Department concedes (at 16). No more is needed to ensure that the House and the Oversight Committee have considered their legitimate needs and determined that such a subpoena is warranted. The Department's argument (at 21) that this expression of legislative purpose (Comm. Br. 8-19, 30-35) is insufficient is inconsistent with *McGrain*, where the Supreme Court held that a resolution that did "not in terms avow that it is intended to be in aid of legislation"—much less identify specific legislation—sufficed. 273 U.S. at 177.

The Department objects (at 21 (quoting *Watkins*, 354 U.S. at 204)) that the House cannot "retroactive[ly] rationaliz[e]" its subpoena in litigation. But *ex post* identification of legislative proposals is not what concerned the Supreme Court in *Watkins*. In reviewing a criminal contempt conviction arising out of a Cold War loyalty investigation involving "broad-scale intrusion into the lives and affairs of private citizens," the Court held that the defendant had not been given fair notice of the subject of the inquiry before being held in contempt. 354 U.S. at 208-09. The Court was concerned that "[a]buses of the investigative process may imperceptibly

lead to abridgment of protected freedoms" and require testimony about a witness's "beliefs, expressions or associations." *Id.* at 197. No such danger is present here.[10]

Watkins further shows that legislative purpose and the relevance of information need not be publicly declared *before* an investigation commences. In considering the inquiry's scope, the Supreme Court reviewed the authorizing resolution, *id.* at 209; the chairman's opening statement, *id.* at 209-10; the chairman's reference to a bill at the hearing, *id.* at 212-13, other hearing witness testimony, *id.* at 213; the questions challenged by the defendant, *id.* at 213-14; and the chairman's response when the defendant objected, *id.* at 214. If only reasons stated *ex ante* were relevant, *Watkins* would have looked quite different.

The Department's reliance (*e.g.*, at 21) on *Tobin v. United States*, 306 F.2d 270, 274 n.7 (D.C. Cir. 1960), is similarly misplaced for the reasons stated in the Oversight Committee's brief (at 39-40) and because that subcommittee had a single "stated purpose" that raised difficult constitutional questions. 306 F.2d at 272. Unlike in *Tobin*, the Oversight Committee has multiple, legitimate legislative purposes that do not require this Court to resolve difficult constitutional questions, and any one of these purposes justifies the subpoena here.

[10] *Watkins* was "not concerned with the power of the Congress to inquire into and publicize corruption, maladministration or inefficiency in agencies of the Government." 354 U.S. at 200 n.33; *see* Comm. Br. 31-34 (describing investigation into agency administration).

Criticism by subjects of Congressional investigations that those investigations are politically motivated is nothing new. *See Eastland*, 421 U.S. at 508. The Senate's investigation of what became known as the Teapot Dome scandal in the 1920s provoked accusations of "blatantly partisan behavior." Hasia Diner, *Teapot Dome 1924*, *in Congress Investigates* 212. Yet the Supreme Court held that "[p]lainly, the subject [of the investigation] was one on which legislation could be had," *McGrain*, 273 U.S. at 177, and emphasized that, when an investigation could aid Congress's legitimate legislative purposes, "the presumption should be indulged that this was the real object," and courts are "bound to presume that the action of the legislative body was with a legitimate object, if it is capable of being so construed," *id.* at 178 (quotation marks omitted).

The Department contends (at 19-20) that this presumption should not apply here, raising the specter of potentially unconstitutional legislative actions. But the Department offers no explanation for how this Court could examine the constitutional validity of legislation that has not yet been proposed (*see* Comm. Br. 38-41), or why the Court would need to do so when the Oversight Committee is considering legislative proposals that raise no such issues (*id.* at 19-20).

Finally, the Department incorrectly contends that "a congressional subpoena's validity always presents questions 'of unusual importance and delicacy.'" DOJ Br. 1 (quoting *McGrain*, 273 U.S. at 154). *McGrain* decided an important and delicate issue *in 1927*. It is now settled that Congress has the power of compulsory process, and the

President should not stand in the way of Mazars's "public duty," *United States v. Bryan*, 339 U.S. 323, 331 (1950), to respond to the subpoena.

Respectfully submitted,

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August 20, 2019

CERTIFICATE OF COMPLIANCE

1. This brief complies with the type-volume limitation of this Court's order of August 16, 2019 because it contains 3,997 words excluding the parts of the brief exempted by Fed. R. App. P. 32(f) and Circuit Rule 32(e)(1).

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

/s/ Douglas N. Letter
Douglas N. Letter

CERTIFICATE OF SERVICE

I certify that on August 20, 2019, I filed the foregoing Brief of the Committee on Oversight and Reform of the U.S. House of Representatives via the CM/ECF system of the United States Court of Appeals for the District of Columbia Circuit, which I understand caused service on all registered parties.

/s/ Douglas N. Letter
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