

19-1540-cv

United States Court of Appeals

for the

Second Circuit

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

Plaintiffs-Appellants,

(For Continuation of Caption See Inside Cover)

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

JOINT APPENDIX

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(For Continuation of Appearances See Inside Cover)

– v. –

DEUTSCHE BANK AG, CAPITAL ONE FINANCIAL CORPORATION,
Defendants-Appellees,

COMMITTEE ON FINANCIAL SERVICES OF THE UNITED STATES
HOUSE OF REPRESENTATIVES, PERMANENT SELECT COMMITTEE
ON INTELLIGENCE OF THE UNITED STATES HOUSE OF
REPRESENTATIVES,
Intervenor Defendants-Appellees.

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**U.S. District Court
Southern District of New York (Foley Square)
CIVIL DOCKET FOR CASE #: 1:19-cv-03826-ER**

Donald J. Trump et al v. Deutsche Bank, AG et al
Assigned to: Judge Edgardo Ramos
Case in other court: U.S.C.A. – 2nd Circ., 19–01540
Cause: 28:2201 Constitutionality of State Statute(s)

Date Filed: 04/29/2019
Jury Demand: None
Nature of Suit: 890 Other Statutory
Actions
Jurisdiction: Federal Question

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Date Filed	#	Docket Text
04/29/2019	<u>1</u>	COMPLAINT against Deutsche Bank, AG, Capital One Financial Corp.. (Filing Fee \$ 400.00, Receipt Number ANYSDC-16789203) Document filed by The Trump Organization, Inc., Trump Acquisition, Corp., Eric Trump, Trump Organization LLC, DJT Holdings Managing Member LLC, Donald J. Trump, Jr, DJT Holdings LLC, Donald J. Trump, Ivanka Trump, Trump Acquisition LLC, The Donald J. Trump Revocable Trust.(Strawbridge, Patrick) (Entered: 04/29/2019)
04/29/2019	<u>2</u>	CIVIL COVER SHEET filed. (Strawbridge, Patrick) (Entered: 04/29/2019)
04/29/2019	<u>3</u>	REQUEST FOR ISSUANCE OF SUMMONS as to Deutsche Bank AG, re: <u>1</u> Complaint,. Document filed by DJT Holdings LLC, DJT Holdings Managing Member LLC, The Donald J. Trump Revocable Trust, The Trump Organization, Inc., Donald J. Trump, Jr, Donald J. Trump, Eric Trump, Ivanka Trump, Trump Acquisition LLC, Trump Acquisition, Corp., Trump Organization LLC. (Strawbridge, Patrick) (Entered: 04/29/2019)
04/29/2019	<u>4</u>	REQUEST FOR ISSUANCE OF SUMMONS as to Capital One Financial Corp., re: <u>1</u> Complaint,. Document filed by DJT Holdings LLC, DJT Holdings Managing Member LLC, The Donald J. Trump Revocable Trust, The Trump Organization, Inc., Donald J. Trump, Jr, Donald J. Trump, Eric Trump, Ivanka Trump, Trump Acquisition LLC, Trump Acquisition, Corp., Trump Organization LLC. (Strawbridge, Patrick) (Entered: 04/29/2019)
04/29/2019	<u>5</u>	RULE 7.1 CORPORATE DISCLOSURE STATEMENT. No Corporate Parent. Document filed by DJT Holdings LLC.(Strawbridge, Patrick) (Entered: 04/29/2019)
04/29/2019	<u>6</u>	RULE 7.1 CORPORATE DISCLOSURE STATEMENT. No Corporate Parent. Document filed by DJT Holdings Managing Member LLC.(Strawbridge, Patrick) (Entered: 04/29/2019)

04/29/2019	<u>7</u>	RULE 7.1 CORPORATE DISCLOSURE STATEMENT. No Corporate Parent. Document filed by Trump Acquisition, Corp..(Strawbridge, Patrick) (Entered: 04/29/2019)
04/29/2019	<u>8</u>	RULE 7.1 CORPORATE DISCLOSURE STATEMENT. No Corporate Parent. Document filed by Trump Acquisition LLC.(Strawbridge, Patrick) (Entered: 04/29/2019)
04/29/2019	<u>9</u>	RULE 7.1 CORPORATE DISCLOSURE STATEMENT. No Corporate Parent. Document filed by The Trump Organization, Inc..(Strawbridge, Patrick) (Entered: 04/29/2019)
04/29/2019	<u>10</u>	RULE 7.1 CORPORATE DISCLOSURE STATEMENT. No Corporate Parent. Document filed by Trump Organization LLC.(Strawbridge, Patrick) (Entered: 04/29/2019)
04/29/2019	<u>11</u>	MOTION for Patrick Strawbridge to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number ANYSDC-16789656. Motion and supporting papers to be reviewed by Clerk's Office staff. Document filed by DJT Holdings LLC, DJT Holdings Managing Member LLC, The Donald J. Trump Revocable Trust, The Trump Organization, Inc., Donald J. Trump, Jr, Donald J. Trump, Eric Trump, Ivanka Trump, Trump Acquisition LLC, Trump Acquisition, Corp., Trump Organization LLC. (Attachments: # <u>1</u> Affidavit, # <u>2</u> Certificate of Good Standing (Maine), # <u>3</u> Certificate of Good Standing (Massachusetts), # <u>4</u> Certificate of Good Standing (Connecticut), # <u>5</u> Text of Proposed Order)(Strawbridge, Patrick) (Entered: 04/29/2019)
04/29/2019	<u>12</u>	MOTION for William S. Consovoy to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number ANYSDC-16789731. Motion and supporting papers to be reviewed by Clerk's Office staff. Document filed by DJT Holdings LLC, DJT Holdings Managing Member LLC, The Donald J. Trump Revocable Trust, The Trump Organization, Inc., Donald J. Trump, Jr, Donald J. Trump, Eric Trump, Ivanka Trump, Trump Acquisition LLC, Trump Acquisition, Corp., Trump Organization LLC. (Attachments: # <u>1</u> Affidavit, # <u>2</u> Certificate of Good Standing (Virginia), # <u>3</u> Certificate of Good Standing (D.C.), # <u>4</u> Text of Proposed Order)(Consovoy, William) (Entered: 04/29/2019)
04/30/2019		>>>NOTICE REGARDING PRO HAC VICE MOTION. Regarding Document No. <u>12</u> MOTION for William S. Consovoy to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number ANYSDC-16789731. Motion and supporting papers to be reviewed by Clerk's Office staff., <u>11</u> MOTION for Patrick Strawbridge to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number ANYSDC-16789656. Motion and supporting papers to be reviewed by Clerk's Office staff.. The document has been reviewed and there are no deficiencies. (wb) (Entered: 04/30/2019)
04/30/2019		***NOTICE TO ATTORNEY REGARDING CIVIL. CASE OPENING STATISTICAL ERROR CORRECTION: Notice to attorney Patrick Strawbridge. The following case opening statistical information was erroneously selected/entered: Cause of Action code 12:3410. The following correction(s) have been made to your case entry: the Cause of Action code has been modified to 28:2201. (dnh) (Entered: 04/30/2019)
04/30/2019		***NOTICE TO ATTORNEY REGARDING PARTY MODIFICATION. Notice to attorney Patrick Strawbridge. The party information for the following party/parties has been modified: The Donald J. Trump Revocable Trust; The Trump Organization, Inc.. The information for the party/parties has been modified for the following reason/reasons: Exclude from the entry of business name any leading A, An or The.. (dnh) (Entered: 04/30/2019)
04/30/2019		CASE OPENING INITIAL ASSIGNMENT NOTICE: The above-entitled action is assigned to Judge Edgardo Ramos. Please download and review the Individual Practices of the assigned District Judge, located at http://nysd.uscourts.gov/judges/District . Attorneys are responsible for providing courtesy copies to judges where their Individual Practices require such. Please download and review the ECF Rules and Instructions, located at http://nysd.uscourts.gov/ecf_filing.php . (dnh) (Entered: 04/30/2019)

04/30/2019		Magistrate Judge Robert W. Lehrburger is so designated. Pursuant to 28 U.S.C. Section 636(c) and Fed. R. Civ. P. 73(b)(1) parties are notified that they may consent to proceed before a United States Magistrate Judge. Parties who wish to consent may access the necessary form at the following link: http://nysd.uscourts.gov/forms.php . (dnh) (Entered: 04/30/2019)
04/30/2019		Case Designated ECF. (dnh) (Entered: 04/30/2019)
04/30/2019	<u>13</u>	ELECTRONIC SUMMONS ISSUED as to Deutsche Bank, AG. (dnh) (Entered: 04/30/2019)
04/30/2019	<u>14</u>	ELECTRONIC SUMMONS ISSUED as to Capital One Financial Corp.. (dnh) (Entered: 04/30/2019)
04/30/2019	15	ORDER granting <u>11</u> Motion for Patrick Strawbridge to Appear Pro Hac Vice. (HEREBY ORDERED by Judge Edgardo Ramos)(Text Only Order) (jar) Transmission to Attorney Services/Help Desk. (Entered: 04/30/2019)
04/30/2019	16	ORDER granting <u>12</u> Motion for William S. Consovoy to Appear Pro Hac Vice. (HEREBY ORDERED by Judge Edgardo Ramos)(Text Only Order) (jar) Transmission to Attorney Services/Help Desk. (Entered: 04/30/2019)
05/01/2019	<u>17</u>	NOTICE OF APPEARANCE by James Alwin Murphy on behalf of Capital One Financial Corp.. (Murphy, James) (Entered: 05/01/2019)
05/01/2019	<u>18</u>	NOTICE OF APPEARANCE by Steven David Feldman on behalf of Capital One Financial Corp.. (Feldman, Steven) (Entered: 05/01/2019)
05/01/2019	<u>19</u>	RULE 7.1 CORPORATE DISCLOSURE STATEMENT. No Corporate Parent. Document filed by Capital One Financial Corp..(Feldman, Steven) (Entered: 05/01/2019)
05/01/2019	<u>20</u>	WAIVER OF SERVICE RETURNED EXECUTED. Capital One Financial Corp. waiver sent on 4/30/2019, answer due 7/1/2019. Document filed by Trump Organization, Inc.; Trump Acquisition, Corp.; Eric Trump; Trump Organization LLC; DJT Holdings Managing Member LLC; Donald J. Trump, Jr; DJT Holdings LLC; Donald J. Trump; Ivanka Trump; Trump Acquisition LLC; Donald J. Trump Revocable Trust. (Strawbridge, Patrick) (Entered: 05/01/2019)
05/01/2019	<u>21</u>	CONSENT MOTION to Set Briefing Schedule for Preliminary–Injunction Motion . Document filed by DJT Holdings LLC, DJT Holdings Managing Member LLC, Donald J. Trump Revocable Trust, Donald J. Trump, Jr, Donald J. Trump, Eric Trump, Ivanka Trump, Trump Acquisition LLC, Trump Acquisition, Corp., Trump Organization LLC, Trump Organization, Inc.. (Attachments: # <u>1</u> Text of Proposed Order)(Strawbridge, Patrick) (Entered: 05/01/2019)
05/01/2019	<u>22</u>	ORDER granting <u>21</u> motion SETTING BRIEFING SCHEDULE ON MOTION FOR PRELIMINARY INJUNCTION So Ordered. (Signed by Judge Edgardo Ramos on 5/1/2019) (js) Modified on 5/2/2019 (js). (Entered: 05/02/2019)
05/01/2019		Set/Reset Deadlines: (Motions due by 5/3/2019., Responses due by 5/10/2019, Replies due by 5/15/2019.), Set/Reset Hearings:(Oral Argument set for 5/22/2019 at 02:30 PM before Judge Edgardo Ramos.) (js) (Entered: 05/02/2019)
05/02/2019	<u>23</u>	NOTICE OF APPEARANCE by Marc Lee Mukasey on behalf of DJT Holdings LLC, DJT Holdings Managing Member LLC, Donald J. Trump Revocable Trust, Trump Acquisition LLC, Trump Acquisition, Corp., Trump Organization LLC, Trump Organization, Inc.. (Mukasey, Marc) (Entered: 05/02/2019)
05/02/2019	<u>24</u>	WAIVER OF SERVICE RETURNED EXECUTED. Deutsche Bank, AG waiver sent on 4/30/2019, answer due 7/1/2019. Document filed by Trump Organization, Inc.; Trump Acquisition, Corp.; Eric Trump; Trump Organization LLC; DJT Holdings Managing Member LLC; Donald J. Trump, Jr; DJT Holdings LLC; Donald J. Trump; Ivanka Trump; Trump Acquisition LLC; Donald J. Trump Revocable Trust. (Strawbridge, Patrick) (Entered: 05/02/2019)
05/03/2019	<u>25</u>	CONSENT LETTER MOTION for Leave to File intervention addressed to Judge Edgardo Ramos from Douglas N. Letter, General Counsel, U.S. House of Representatives dated 5/3/2019. Document filed by Committee on Financial Services

		of the U.S. House of Representatives, Permanent Select Committee on Intelligence of the U.S. House of Representatives. (Attachments: # <u>1</u> Text of Proposed Order)(Letter, Douglas) (Entered: 05/03/2019)
05/03/2019	<u>26</u>	MOTION for Preliminary Injunction . Document filed by DJT Holdings LLC, DJT Holdings Managing Member LLC, Donald J. Trump Revocable Trust, Donald J. Trump, Jr, Donald J. Trump, Eric Trump, Ivanka Trump, Trump Acquisition LLC, Trump Acquisition, Corp., Trump Organization LLC, Trump Organization, Inc..(Strawbridge, Patrick) (Entered: 05/03/2019)
05/03/2019	<u>27</u>	MEMORANDUM OF LAW in Support re: <u>26</u> MOTION for Preliminary Injunction . . Document filed by DJT Holdings LLC, DJT Holdings Managing Member LLC, Donald J. Trump Revocable Trust, Donald J. Trump, Jr, Donald J. Trump, Eric Trump, Ivanka Trump, Trump Acquisition LLC, Trump Acquisition, Corp., Trump Organization LLC, Trump Organization, Inc.. (Strawbridge, Patrick) (Entered: 05/03/2019)
05/03/2019	<u>28</u>	DECLARATION of Patrick Strawbridge in Support re: <u>26</u> MOTION for Preliminary Injunction .. Document filed by DJT Holdings LLC, DJT Holdings Managing Member LLC, Donald J. Trump Revocable Trust, Donald J. Trump, Jr, Donald J. Trump, Eric Trump, Ivanka Trump, Trump Acquisition LLC, Trump Acquisition, Corp., Trump Organization LLC, Trump Organization, Inc.. (Strawbridge, Patrick) (Entered: 05/03/2019)
05/03/2019	<u>29</u>	PROPOSED ORDER. Document filed by DJT Holdings LLC, DJT Holdings Managing Member LLC, Donald J. Trump Revocable Trust, Donald J. Trump, Jr, Donald J. Trump, Eric Trump, Ivanka Trump, Trump Acquisition LLC, Trump Acquisition, Corp., Trump Organization LLC, Trump Organization, Inc.. Related Document Number: <u>26</u> . (Strawbridge, Patrick) Proposed Order to be reviewed by Clerk's Office staff. (Entered: 05/03/2019)
05/03/2019	<u>30</u>	LETTER MOTION for Conference <i>regarding Limited Expedited Discovery</i> addressed to Judge Edgardo Ramos from Patrick Strawbridge dated 5/3/2019. Document filed by DJT Holdings LLC, DJT Holdings Managing Member LLC, Donald J. Trump Revocable Trust, Donald J. Trump, Jr, Donald J. Trump, Eric Trump, Ivanka Trump, Trump Acquisition LLC, Trump Acquisition, Corp., Trump Organization LLC, Trump Organization, Inc..(Strawbridge, Patrick) (Entered: 05/03/2019)
05/03/2019	<u>31</u>	ORDER GRANTING MOTION TO INTERVENE OF COMMITTEE ON FINANCIAL SERVICES OF THE U.S. HOUSE OF REPRESENTATIVES AND PERMANENT SELECT COMMITTEE ON INTELLIGENCE OF THE U.S. HOUSE OF REPRESENTATIVES <u>25</u> Letter Motion for Leave to File Document. It is SO ORDERED that the motion of the proposed intervenor-defendants Committee on Financial Services and Permanent Select Committee on Intelligence of the U.S. House of Representatives (Committees) is GRANTED.IT IS FURTHER ORDERED THAT the intervenor-defendant Committees shall comply with the deadlines set forth in this Courts May 1, 2019 order setting a briefing schedule (ECF No. 22). (Signed by Judge Edgardo Ramos on 5/3/2019) (jca) (Entered: 05/03/2019)
05/03/2019	<u>32</u>	ORDER granting <u>30</u> Letter Motion for Conference. A pre-motion conference will be held on Thursday, May 9, 2019, at 2:30 p.m. Defendants are directed to submit a response to Plaintiffs' letter by close of business Tuesday, May 7, 2019. It is SO ORDERED. (Pre-Motion Conference set for 5/9/2019 at 02:30 PM before Judge Edgardo Ramos.) (Signed by Judge Edgardo Ramos on 5/3/2019) (jca) (Entered: 05/03/2019)
05/03/2019		Set/Reset Deadlines: Responses due by 5/7/2019 (jca) (Entered: 05/03/2019)
05/03/2019	<u>33</u>	NOTICE OF APPEARANCE by Parvin Daphne Moyne on behalf of Deutsche Bank, AG. (Moyne, Parvin) (Entered: 05/03/2019)
05/03/2019	<u>34</u>	RULE 7.1 CORPORATE DISCLOSURE STATEMENT. No Corporate Parent. Document filed by Deutsche Bank, AG.(Moyne, Parvin) (Entered: 05/03/2019)
05/03/2019	<u>35</u>	MOTION for Steven R. Ross to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number ANYSDC-16820370. Motion and supporting papers to be reviewed by Clerk's Office staff. Document filed by Deutsche Bank, AG. (Attachments: # <u>1</u>

		Declaration of Steven R. Ross, # <u>2</u> District of Columbia Certificate of Good Standing, # <u>3</u> Text of Proposed Order)(Ross, Steven) (Entered: 05/03/2019)
05/03/2019	<u>36</u>	MOTION for Raphael A. Prober to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number ANYSDC-16820786. Motion and supporting papers to be reviewed by Clerk's Office staff. Document filed by Deutsche Bank, AG. (Attachments: # <u>1</u> Declaration of Raphael A. Prober, # <u>2</u> District of Columbia Certificate of Good Standing, # <u>3</u> New York Certificate of Good Standing, # <u>4</u> Text of Proposed Order)(Prober, Raphael) (Entered: 05/03/2019)
05/03/2019	<u>37</u>	MOTION for Thomas C. Moyer to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number ANYSDC-16820815. Motion and supporting papers to be reviewed by Clerk's Office staff. Document filed by Deutsche Bank, AG. (Attachments: # <u>1</u> Declaration of Thomas C. Moyer, # <u>2</u> District of Columbia Certificate of Good Standing, # <u>3</u> Virginia Certificate of Good Standing, # <u>4</u> Text of Proposed Order)(Moyer, Thomas) (Entered: 05/03/2019)
05/06/2019		>>> NOTICE REGARDING PRO HAC VICE MOTION. Regarding Document No. <u>35</u> MOTION for Steven R. Ross to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number ANYSDC-16820370. Motion and supporting papers to be reviewed by Clerk's Office staff., <u>36</u> MOTION for Raphael A. Prober to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number ANYSDC-16820786. Motion and supporting papers to be reviewed by Clerk's Office staff., <u>37</u> MOTION for Thomas C. Moyer to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number ANYSDC-16820815. Motion and supporting papers to be reviewed by Clerk's Office staff.. The document has been reviewed and there are no deficiencies. (wb) (Entered: 05/06/2019)
05/06/2019		***NOTICE TO COURT REGARDING PROPOSED ORDER. Document No. <u>29</u> Proposed Order was reviewed and approved as to form. (km) (Entered: 05/06/2019)
05/07/2019	<u>38</u>	LETTER addressed to Judge Edgardo Ramos from Steven R. Ross dated May 7, 2019 re: Statement of Position. Document filed by Deutsche Bank, AG.(Ross, Steven) (Entered: 05/07/2019)
05/07/2019	<u>39</u>	NOTICE OF APPEARANCE by Douglas Neal Letter on behalf of Committee on Financial Services of the U.S. House of Representatives, Permanent Select Committee on Intelligence of the U.S. House of Representatives. (Letter, Douglas) (Entered: 05/07/2019)
05/07/2019	<u>40</u>	LETTER addressed to Judge Edgardo Ramos from James A. Murphy dated May 7, 2019 re: Statement of Position. Document filed by Capital One Financial Corp..(Murphy, James) (Entered: 05/07/2019)
05/07/2019	<u>41</u>	CONSENT LETTER MOTION for Extension of Time to File Response/Reply addressed to Judge Edgardo Ramos from Douglas N. Letter, General Counsel, U.S. House of Representatives dated 05/07/2019. Document filed by Committee on Financial Services of the U.S. House of Representatives, Permanent Select Committee on Intelligence of the U.S. House of Representatives. (Attachments: # <u>1</u> Text of Proposed Order)(Letter, Douglas) (Entered: 05/07/2019)
05/07/2019	<u>42</u>	ORDER GRANTING INTERVENOR-DEFENDANTS' CONSENT MOTION FOR EXTENSION OF TIME granting <u>41</u> Letter Motion for Extension of Time to File Response/Reply. It is SO ORDERED that the consent motion of intervenor-defendants Committee on Financial Services and Permanent Select Committee on Intelligence of the U.S. House of Representatives for a 24-hour extension of time to respond to plaintiffs' May 3, 2019 letter is GRANTED. (Signed by Judge Edgardo Ramos on 5/7/2019) Copies Mailed By Chambers. (rro) (Entered: 05/08/2019)
05/08/2019	<u>43</u>	LETTER addressed to Judge Edgardo Ramos from Patrick Strawbridge dated 05/08/2019 re: Withdrawing Letter Motion for Conference. Document filed by DJT Holdings LLC, DJT Holdings Managing Member LLC, Donald J. Trump Revocable Trust, Donald J. Trump, Jr, Donald J. Trump, Eric Trump, Ivanka Trump, Trump Acquisition LLC, Trump Acquisition, Corp., Trump Organization LLC, Trump Organization, Inc..(Strawbridge, Patrick) (Entered: 05/08/2019)

05/08/2019	<u>44</u>	MEMO ENDORSEMENT on re: <u>43</u> Letter, filed by Trump Acquisition LLC, DJT Holdings Managing Member LLC, Ivanka Trump, Donald J. Trump Revocable Trust, Trump Organization, Inc., Trump Acquisition, Corp., Eric Trump, Donald J. Trump, Jr., DJT Holdings LLC, Trump Organization LLC, Donald J. Trump. ENDORSEMENT: The conference previously scheduled for May 9, 2019, is hereby terminated. It is SO ORDERED. (Signed by Judge Edgardo Ramos on 5/8/2019) (kv) (Entered: 05/08/2019)
05/10/2019	<u>45</u>	RESPONSE to Motion re: <u>26</u> MOTION for Preliminary Injunction . <i>Defendant Deutsche Bank AG's Statement of Position as to Plaintiffs' Motion for a Preliminary Injunction</i> . Document filed by Deutsche Bank, AG. (Ross, Steven) (Entered: 05/10/2019)
05/10/2019	<u>46</u>	RESPONSE to Motion re: <u>26</u> MOTION for Preliminary Injunction . . Document filed by Capital One Financial Corp.. (Murphy, James) (Entered: 05/10/2019)
05/10/2019	<u>47</u>	NOTICE OF APPEARANCE by Todd Barry Tatelman on behalf of Committee on Financial Services of the U.S. House of Representatives, Permanent Select Committee on Intelligence of the U.S. House of Representatives. (Tatelman, Todd) (Entered: 05/10/2019)
05/10/2019	<u>48</u>	NOTICE OF APPEARANCE by Megan Barbero on behalf of Committee on Financial Services of the U.S. House of Representatives, Permanent Select Committee on Intelligence of the U.S. House of Representatives. (Barbero, Megan) (Entered: 05/10/2019)
05/10/2019	<u>49</u>	NOTICE OF APPEARANCE by Brooks M Hanner on behalf of Committee on Financial Services of the U.S. House of Representatives, Permanent Select Committee on Intelligence of the U.S. House of Representatives. (Hanner, Brooks) (Entered: 05/10/2019)
05/10/2019	<u>50</u>	NOTICE OF APPEARANCE by Josephine Morse on behalf of Committee on Financial Services of the U.S. House of Representatives, Permanent Select Committee on Intelligence of the U.S. House of Representatives. (Morse, Josephine) (Entered: 05/10/2019)
05/10/2019	<u>51</u>	RESPONSE in Opposition to Motion re: <u>26</u> MOTION for Preliminary Injunction . . Document filed by Committee on Financial Services of the U.S. House of Representatives, Permanent Select Committee on Intelligence of the U.S. House of Representatives. (Attachments: # <u>1</u> Affidavit Declaration of Todd B. Tatelman, # <u>2</u> Exhibit Ex. A to Declaration of Todd B. Tatelman, # <u>3</u> Exhibit Ex. B to Declaration of Todd B. Tatelman)(Letter, Douglas) (Entered: 05/10/2019)
05/13/2019	<u>52</u>	CONSENT LETTER MOTION for Leave to File Excess Pages addressed to Judge Edgardo Ramos from Patrick Strawbridge dated 5/13/2019. Document filed by DJT Holdings LLC, DJT Holdings Managing Member LLC, Donald J. Trump Revocable Trust, Donald J. Trump, Jr, Donald J. Trump, Eric Trump, Ivanka Trump, Trump Acquisition LLC, Trump Acquisition, Corp., Trump Organization LLC, Trump Organization, Inc..(Strawbridge, Patrick) (Entered: 05/13/2019)
05/14/2019	53	ORDER granting <u>52</u> Letter Motion for Leave to File Excess Pages. Plaintiffs are granted leave to file a 15–page reply brief. (HEREBY ORDERED by Judge Edgardo Ramos)(Text Only Order) (jar) (Entered: 05/14/2019)
05/15/2019	<u>54</u>	REPLY MEMORANDUM OF LAW in Support re: <u>26</u> MOTION for Preliminary Injunction . . Document filed by DJT Holdings LLC, DJT Holdings Managing Member LLC, Donald J. Trump Revocable Trust, Donald J. Trump, Jr, Donald J. Trump, Eric Trump, Ivanka Trump, Trump Acquisition LLC, Trump Acquisition, Corp., Trump Organization LLC, Trump Organization, Inc.. (Strawbridge, Patrick) (Entered: 05/15/2019)
05/20/2019	<u>55</u>	NOTICE of Supplemental Authority. Document filed by Committee on Financial Services of the U.S. House of Representatives, Permanent Select Committee on Intelligence of the U.S. House of Representatives. (Attachments: # <u>1</u> Exhibit Opinion, # <u>2</u> Exhibit Order)(Letter, Douglas) (Entered: 05/20/2019)
05/21/2019	56	ORDER granting <u>35</u> Motion for Steven R. Ross to Appear Pro Hac Vice. (HEREBY ORDERED by Judge Edgardo Ramos)(Text Only Order) (jar) Transmission to

		Attorney Services/Help Desk. (Entered: 05/21/2019)
05/21/2019	57	ORDER granting <u>36</u> Motion for Raphael A. Prober to Appear Pro Hac Vice. (HEREBY ORDERED by Judge Edgardo Ramos)(Text Only Order) (jar) Transmission to Attorney Services/Help Desk. (Entered: 05/21/2019)
05/21/2019	58	ORDER granting <u>37</u> Motion for Thomas C. Moyer to Appear Pro Hac Vice. (HEREBY ORDERED by Judge Edgardo Ramos)(Text Only Order) (jar) Transmission to Attorney Services/Help Desk. (Entered: 05/21/2019)
05/22/2019	<u>59</u>	ORDER: denying <u>26</u> Motion for Preliminary Injunction. For the reasons set forth on the record in today's hearing, Plaintiffs' motion for a preliminary injunction is DENIED, Plaintiffs' motion for a stay pending appeal is DENIED, and the Committees' application for consolidation is DENIED. The Clerk of Court is respectfully directed to terminate the motion, Doc. 26. It is SO ORDERED. (Signed by Judge Edgardo Ramos on 5/22/2019) (ama) (Entered: 05/22/2019)
05/24/2019	<u>60</u>	NOTICE OF INTERLOCUTORY APPEAL from <u>59</u> Order on Motion for Preliminary Injunction,. Document filed by DJT Holdings LLC, DJT Holdings Managing Member LLC, Donald J. Trump Revocable Trust, Donald J. Trump, Jr, Donald J. Trump, Eric Trump, Ivanka Trump, Trump Acquisition LLC, Trump Acquisition, Corp., Trump Organization LLC, Trump Organization, Inc.. Filing fee \$ 505.00, receipt number ANYSDC-16950902. Form C and Form D are due within 14 days to the Court of Appeals, Second Circuit. (Strawbridge, Patrick) (Entered: 05/24/2019)
05/24/2019		Transmission of Notice of Appeal and Certified Copy of Docket Sheet to US Court of Appeals re: <u>60</u> Notice of Interlocutory Appeal. (tp) (Entered: 05/24/2019)
05/24/2019		Appeal Record Sent to USCA (Electronic File). Certified Indexed record on Appeal Electronic Files for <u>60</u> Notice of Interlocutory Appeal, filed by Trump Acquisition LLC, DJT Holdings Managing Member LLC, Ivanka Trump, Donald J. Trump Revocable Trust, Trump Organization, Inc., Trump Acquisition, Corp., Eric Trump, Donald J. Trump, Jr., DJT Holdings LLC, Trump Organization LLC, Donald J. Trump were transmitted to the U.S. Court of Appeals. (tp) (Entered: 05/24/2019)
05/25/2019	<u>61</u>	JOINT MOTION to Stay . Document filed by DJT Holdings LLC, DJT Holdings Managing Member LLC, Donald J. Trump Revocable Trust, Donald J. Trump, Jr, Donald J. Trump, Eric Trump, Ivanka Trump, Trump Acquisition LLC, Trump Acquisition, Corp., Trump Organization LLC, Trump Organization, Inc..(Strawbridge, Patrick) (Entered: 05/25/2019)
05/28/2019		USCA Case Number 19-1540 from the U.S.C.A. - 2nd Circ. assigned to <u>60</u> Notice of Interlocutory Appeal,, filed by Trump Acquisition LLC, DJT Holdings Managing Member LLC, Ivanka Trump, Donald J. Trump Revocable Trust, Trump Organization, Inc., Trump Acquisition, Corp., Eric Trump, Donald J. Trump, Jr., DJT Holdings LLC, Trump Organization LLC, Donald J. Trump. (nd) (Entered: 05/28/2019)
05/28/2019	<u>62</u>	ORDER granting <u>61</u> Motion to Stay. The application is granted. SO ORDERED. (Signed by Judge Edgardo Ramos on 5/28/2019) (kv) (Entered: 05/28/2019)

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

<p>DONALD J. TRUMP, DONALD J. TRUMP JR., ERIC TRUMP, IVANKA TRUMP,</p> <p>and</p> <p>THE DONALD J. TRUMP REVOCABLE TRUST, THE TRUMP ORGANIZATION, INC., TRUMP ORGANIZATION LLC, DJT HOLDINGS LLC, DJT HOLDINGS MANAGING MEMBER LLC, TRUMP ACQUISITION LLC, and TRUMP ACQUISITION, CORP.,</p> <p style="text-align: right;">Plaintiffs,</p> <p style="text-align: center;">- against -</p> <p>DEUTSCHE BANK AG and CAPITAL ONE FINANCIAL CORP.,</p> <p style="text-align: right;">Defendants.</p>
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Docket No. _____

COMPLAINT

Plaintiffs, by their attorneys Consovoy McCarthy Park PLLC and Mukasey Frenchman & Sklaroff LLP, bring this complaint against Defendants and allege as follows:

A. INTRODUCTION

1. This case involves Congressional subpoenas that have no legitimate or lawful purpose. The subpoenas were issued to harass President Donald J. Trump, to rummage through every aspect of his personal finances, his businesses, and the private information of the President and his family, and to ferret about for any material that might be used to cause him political damage. No grounds exist to establish any purpose other than a political one.

2. The House Permanent Select Committee on Intelligence and the House Financial Services Committee issued the subpoenas to Defendants Deutsche Bank AG and Capital One Financial Corp. These two financial institutions have long provided business and personal banking services to Plaintiffs.

3. The Chairpersons of the Intelligence and Financial Services Committees (Adam B. Schiff and Maxine M. Waters) have confirmed the issuance of the subpoenas, making public statements to the media that emphasize their intention to probe every aspect of the private lives of the Trump family, their businesses, and even those with only the most tangential connection to Trump entities, regardless whether any evidence (credible or otherwise) exists to support such intrusive probes. The Committees have refused to provide copies of the subpoenas to Plaintiffs—preventing them from even knowing, let alone negotiating, the subpoenas’ scope or breadth.

4. Nonetheless, Defendants’ descriptions of the subpoenas confirm their remarkable overbreadth. According to Defendants, the Committees are seeking all banking and financial records not just concerning the individual Plaintiffs, but also their own family members. This means the subpoenas request documents about accounts of the Plaintiffs’ children (and in some cases, grandchildren).

5. The subpoenas to the entities are equally intrusive and overbroad. They seek not only the Plaintiffs’ documents, but also the financial records of their parents, subsidiaries, affiliates, branches, divisions, partnerships, properties, groups, special purpose entities, joint ventures, predecessors and successors. As if that were not broad enough, the subpoenas extend further to documents concerning each of the entities’ current or former employees, officers, directors, shareholders, partners, members, consultants, managers, senior associates, staff employees, independent contractors, agents, attorneys, or other representatives.

6. For most of the documents, the Committees demand records from the last ten years. For others, the request is unbounded—meaning the Committees seek records dating back decades, to the individual Plaintiffs’ own childhoods.

7. The intrusiveness and impropriety of these requests are obvious. The House of Representatives is demanding, among other things, records of every single checking withdrawal, credit-card swipe, or debit-card purchase—no matter how trivial or small—made by each and every

member of the Trump family. But the dates and times when these individuals purchased books, groceries and other personal items is not the business of the House of Representatives or anyone else. It is an abuse of power to claim otherwise (particularly since the Committees declined to ask Plaintiffs themselves for the records, or even to discuss the scope of their requests).

8. In an effort to justify their demands, the chairs of the Committees have claimed that the subpoenas are intended to investigate “potential foreign influence on the U.S. political process” or the use of the financial system for “illicit purposes.” But the information they seek long predates the President’s election to office, reaches well beyond transactions associated with foreign parties, and encompasses reams of account records for entities, individuals, children, and spouses who have never even been implicated in any probe.

9. The Committees have 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.

10. The subpoenas to Deutsche Bank and Capital One lack any legitimate legislative purpose. There is no possible legislation at the end of this tunnel; indeed, the Committee Chairs have not claimed otherwise. With these subpoenas, the Committees are instead assuming the powers of the Department of Justice, investigating (dubious and partisan) rumors of illegal conduct by private individuals, many of whom are outside of government. Their goal is to rummage around Plaintiffs’ private financial information in the hope that they will stumble upon something they can expose publicly and use as a political tool against the President.

11. Moreover, the Committees’ attempts to obtain Plaintiffs’ account records violate the statutory requirements that apply to the federal government under the Right to Financial Privacy Act

(“RFPA”). Under the RFPA, federal authorities are required to follow certain steps—including the provision of notice and an opportunity to object—before obtaining private financial records. The Committees have ignored these requirements, and any production of account records by Deutsche Bank or Capital One would violate the law.

12. This Court has the power to declare the subpoenas invalid and enjoin Defendants from complying with them for at least two reasons. First, because the Committees’ subpoenas threaten to expose Plaintiffs’ confidential account information and lack “a legitimate legislative purpose,” and second, because they violate the protections of the RFPA. *See 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), which authorized a private right of action for declaratory and injunctive relief); 12 U.S.C. §3418 (authorizing injunctive relief to prevent violations of the RFPA). Plaintiffs are entitled to that relief.

B. PARTIES

13. 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.

14. Plaintiff Donald J. Trump Jr. is the son of President Trump.

15. Plaintiff Eric Trump is the son of President Trump.

16. Plaintiff Ivanka Trump is the daughter of President Trump.

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

18. 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.

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

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

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

22. Plaintiff Trump Acquisition Corp. is a Delaware corporation with its principal place of business at 725 Fifth Avenue, New York, NY 10022.

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

24. Defendant Deutsche Bank AG is a bank organized under the laws of the Federal Republic of Germany with a branch at 60 Wall Street, New York, NY 10005. Deutsche Bank received one or more subpoenas from the Committees seeking account records and other documents concerning one or more of Plaintiffs.

25. Defendant Capital One Financial Corp. is a bank holding company headquartered in McLean, VA, with numerous branch offices in New York City. Capital One received one or more subpoenas from the Committees seeking account records and other documents concerning one or more of Plaintiffs.

C. JURISDICTION & VENUE

26. 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, and because it is brought to enforce the provisions of the RFPA, 12 U.S.C. §3416.

27. Venue is proper because a substantial part of the events or omissions giving rise to Plaintiffs' claims occurred in this district and a substantial part of the property that is the subject of Plaintiffs' action is situated in this district. 28 U.S.C. §1391(b)(2).

D. BACKGROUND

1. Challenges to Congressional Subpoenas

28. Not infrequently, federal courts adjudicate the legality of congressional subpoenas. Most such cases follow a familiar 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.

29. 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 third party from complying. *Eastland*, 488 F.2d at 1259, 1255. The third party cannot comply with the subpoena unless “a legitimate legislative purpose is present.” *Eastland*, 421 U.S. at 501.

30. 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.”).

31. “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.

32. 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.

33. Finally, when a subpoena is issued by a 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).

2. The Campaign of Abusive Investigations and Harassment of Plaintiffs

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

35. On the night of the election, soon-to-be House Speaker Nancy Pelosi announced that “tomorrow will be a new day in America” because the new majority would 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.” “Congress is going to force transparency on this president,” another congressional aide repeated. “Once there is transparency, I am sure there are going to be a lot of questions that flow from that.”

36. The 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, the statements 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.”

37. Prominent Representatives were quite candid about their 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 official revealed that, from November 2018 to January 2019, Representatives 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 the House planned to investigate and stated, “We have our boxing gloves on. I’m ready.” Just last month, Chairwoman Waters declared that “I haven’t forgotten about 45”—meaning President Trump. “I have the gavel—and subpoena power—and I am not afraid to use it.”

38. The “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. Chairwoman Waters declared that “[w]e’re going to find out where your money has come from.” The Committees want this personal information in the hopes they will find something to score political points against the President leading up to the 2020 election.

39. The Committee Chairpersons 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 Jerrold Nadler of the House Judiciary Committee, for example, asked 81 different individuals and entities for information about President Trump.

40. A few weeks ago, Chairpersons Schiff, Waters, and Elijah Cummings of the House Oversight Committee agreed to coordinate their subpoenas in order to inflict maximum political damage on President Trump by targeting his business and financial records.

41. Last Monday, Chairman Cummings sent one such subpoena to Mazars USA LLP—Plaintiffs’ longtime accountant.

42. The subpoenas at issue in this lawsuit were sent shortly thereafter.

3. The Subpoenas to Deutsche Bank and Capital One.

43. Chairman Schiff and Chairwoman Waters issued statements to the press confirming the existence of the subpoenas to Defendants shortly after they were sent. Chairman Schiff confirmed that Deutsche Bank had received a “friendly” subpoena. Chairman Waters told the press that the subpoenas were sent as part of an alleged inquiry into the “potential use of the U.S. financial system for illicit purposes.”

44. Plaintiffs, through counsel, contacted the Committees and requested copies of the subpoenas to help determine their scope. Notwithstanding their willingness to discuss the subpoenas

with the press, the Committees declined to provide copies of the subpoenas (or any information about their contents) to Plaintiffs.

45. On April 17, 2019, counsel for Deutsche Bank confirmed in writing to Plaintiffs that it had received the subpoenas. According to Deutsche Bank, the subpoenas seek “records and/or information related to banking activities, including information regarding accounts, financings, and related financial information” for all of the named Plaintiffs.

46. Moreover, the subpoenas to Deutsche Bank seek production of account records and other financial information for Plaintiffs’ “parents, subsidiaries, affiliates, branches, divisions, partnerships, properties, groups, special purpose entities, joint ventures, predecessors, successors or any other entity in which they have or had a controlling interest.” The subpoenas further extend to all “current or former employees, officers, directors, shareholders, partners, members, consultants, managers, senior associates, staff employees, independent contractors, agents, attorneys or other representatives” of the Plaintiff entities.

47. For the individual Plaintiffs, Deutsche Bank has advised that the subpoenas seek banking and financial records for all “members of their immediate families,” including any accounts for which they are beneficiaries, trustees, beneficial owners, or over which they have control. This sweeps in the complete banking and account records of numerous children—including minors—and spouses of the named individuals.

48. Deutsche Bank subsequently confirmed that, in general, the subpoenas call for it to produce responsive documents from January 1, 2010 through the present—although for some documents (including account applications and opening documents), the subpoena requires production without any time limitation.

49. Deutsche Bank informed Plaintiffs that, absent a court order, they intend to begin production of documents in response to the subpoena on May 6.

50. Plaintiffs subsequently contacted Capital One, which confirmed receipt of a subpoena that, upon information and belief, seeks similar documents from the same Plaintiffs. Capital One has informed Plaintiffs that it feels obligated to comply with the subpoena absent court intervention before May 6.

51. Plaintiffs have numerous accounts, including personal, family, and business accounts, at Deutsche Bank and Capital One.

52. The records at issue are protected from disclosure by the federal Right to Financial Privacy Act, 12 U.S.C. §3501 *et seq.*, which imposes strict procedural requirements on federal attempts to obtain account records. The Committees did not follow those procedures here and, as a result, the Act prohibits Deutsche Bank and Capital One from producing the account records.

53. Plaintiffs bring this suit to challenge the validity and enforceability of the subpoenas. Now that the subpoenas have issued, Deutsche Bank and Capital One face a difficult choice: ignore the subpoenas and risk contempt of Congress, or comply with the subpoenas and risk liability to Plaintiffs under the RFPA and other laws. To resolve these conflicting commands, courts instruct third-party custodians like Defendants to hold onto the subpoenaed materials until the dispute over the subpoenas' validity is finally resolved in court. *See United States v. AT&T Co.*, 567 F.2d 121, 129 (D.C. Cir. 1977); *United States v. Deloitte LLP*, 610 F.3d 129, 142 (D.C. Cir. 2010). Thus, Congress cannot take any action against Deutsche Bank or Capital One until this litigation is finally resolved.

E. CLAIMS FOR RELIEF

1. The Subpoenas Exceed the Committees' Constitutional Authority

54. Plaintiffs incorporate all their prior allegations.

55. The subpoenas are invalid and unenforceable because they have no legitimate legislative purpose.

56. The subpoenas seek to investigate events that occurred while President Trump was a private citizen, years before he was even a candidate for public office.

57. The subpoenas seek to investigate events that could not possibly lead to legislation within the Intelligence or Financial Services Committees' statutory jurisdiction and constitutional authority.

58. The subpoenas are 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.

2. The Subpoenas Violate the Right to Financial Privacy Act

59. Plaintiffs incorporate all their prior allegations.

60. The RFPA prohibits Deutsche Bank and Capital One from giving a customer's protected account information to the federal government. 12 U.S.C. §3403(a).

61. Financial institutions can turn over a customer's information only if the government certifies that it has complied with the RFPA's procedures. §3403(b). For a subpoena, those procedures include (1) "reason to believe" that the records are "relevant to a legitimate law enforcement inquiry"; (2) giving a copy of the subpoena to the customer; and (3) waiting at least 10 days so the customer has a chance to object. §3405; *see also* §3408 (similar procedures for "written requests").

62. The Committees have not complied with the RFPA's provisions or issued the required certifications.

63. The RFPA authorizes injunctive relief "to require that the procedures of this chapter are complied with." §3418.

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

- a. A declaratory judgment that the subpoenas are invalid and unenforceable;
- b. A permanent injunction quashing the subpoenas;

c. A permanent injunction prohibiting Deutsche Bank and Capital One from disclosing, revealing, delivering, or producing the requested information, or otherwise complying with the subpoenas;

d. A temporary restraining order and preliminary injunction prohibiting Deutsche Bank and Capital One from disclosing, revealing, delivering, or producing the requested information, or otherwise complying with the subpoenas, 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.

Dated: April 29, 2019

Respectfully submitted,

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cam@consovoymccarthy.com

*Counsel for President Donald J. Trump,
Donald J. Trump Jr., Eric Trump, and Ivanka Trump*

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

DONALD J. TRUMP, DONALD J. TRUMP
JR., ERIC TRUMP, IVANKA TRUMP,

and

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

Plaintiffs,

- against -

DEUTSCHE BANK AG and CAPITAL ONE
FINANCIAL CORP.,

Defendants.

Docket No. 1:19-cv-03826-ER

**DECLARATION OF PATRICK
STRAWBRIDGE**

1. I am an attorney at the law firm Consovoy McCarthy Park PLLC and counsel for Plaintiffs President Donald J. Trump, Donald J. Trump Jr., Eric Trump, and Ivanka Trump in their personal capacities.

2. I am over the age of 18 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 is an email that I received on April 22, 2019 from Douglas N. Letter, General Counsel of the U.S. House of Representatives.

4. Exhibit B is a letter that I received on April 17, 2019 from Steven R. Ross and Raphael A. Prober of Akin Gump, outside counsel for Deutsche Bank.

5. Exhibit C is an email that I received on April 22, 2019 from Mr. Ross.

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 3, 2019.

/s Patrick Stranbridge

Exhibit A

From: Letter, Douglas Douglas.Letter@mail.house.gov
Subject: Subpoena email response
Date: April 22, 2019 at 2:06 PM
To: patrick@consvoymccarthy.com, will@consvoymccarthy.com
Cc: Tatelman, Todd Todd.Tatelman@mail.house.gov



Mr. Strawbridge,

I write on behalf of the Committee on Financial Services and the House Permanent Select Committee on Intelligence (“Committees”) in response to your April 19, 2019 email request that the Committees provide you with copies of “any subpoenas from the [Committees] seeking information from any financial institution about my clients.”

Please be advised that your clients are not the recipients of any subpoenas issued by the Committees and, consistent with long-standing practice, the Committees do not provide copies of subpoenas to third parties. Please feel free to direct any and all future inquiries about these matters to my attention and to Deputy General Counsel Todd Tatelman (copied here).

Sincerely,

Douglas N. Letter
General Counsel
Office of General Counsel
U.S. House of Representatives
219 Cannon House Office Building
Washington, DC 20515
Douglas.Letter@mail.house.gov
(202) 225-9700

From: Tatelman, Todd
Sent: Monday, April 22, 2019 2:00 PM
To: Letter, Douglas <Douglas.Letter@mail.house.gov>
Subject: Strawbridge email

Exhibit B

Akin Gump

STRAUSS HAUER & FELD LLP

STEVEN R. ROSS

+1 202.887.4343/fax: +1 202.887.4288
sross@akingump.com

RAPHAEL A. PROBER

+1 202.887.4319/fax: +1 202.887.4288
rprober@akingump.com

April 17, 2019

Alan Garten
Executive Vice President and
Chief Legal Officer
The Trump Organization
725 Fifth Avenue
New York, NY 10022

Patrick Strawbridge
Consovoy McCarthy Park PLLC
3033 Wilson Boulevard
Suite 700
Arlington, VA 22201

Dear Messrs. Garten & Strawbridge:

This is to inform you that our client, Deutsche Bank AG (“Deutsche Bank”), has received subpoenas issued by the United States House of Representatives Committee on Financial Services and Permanent Select Committee on Intelligence requiring production of certain records and/or information related to banking activities, including information regarding accounts, financings and related financial information, with respect to:

- Donald J. Trump
- Donald Trump, Jr.
- Ivanka Trump
- Eric Trump
- The Donald J. Trump Revocable Trust
- Trump Organization Inc.
- Trump Organization LLC
- DJT Holdings LLC
- DJT Holdings Managing Member LLC
- Trump Acquisition LLC
- Trump Acquisition Corp.

Alan Garten
Patrick Strawbridge
April 17, 2019
Page 2



- any other name, alias, code name, code number, or entity used in lieu of any of the individuals or entities named above or members of their immediate family

or any account (including, but not limited to, any money market, securities, or trading account or any loan account or structure) in the name of any of the above-named individuals or entities (or any other name, alias, code name, code number, or entity used in lieu of any of the named individuals or entities) or members of their immediate family, individually or with other parties, as well as any account in which any of the above-named individuals or entities are or were, or have been identified as being, a trustee, settlor or grantor, beneficiary, or beneficial owner, or in which any of the individuals or entities have or have had in any way control over, individually or with others.

These subpoenas extend to relevant records and/or information related to the listed entities' parents, subsidiaries, affiliates, branches, divisions, partnerships, properties, groups, special purpose entities, joint ventures, predecessors, successors, or any other entity in which they have or had a controlling interest, and any current or former employee, officer, director, shareholder, partner, member, consultant, senior manager, manager, senior associate, staff employee, independent contractor, agent, attorney or other representative of the above listed entities.

This letter is intended to provide notice of the subpoenas to the above-referenced parties and entities, including—to the extent applicable—any relevant current or former employees of such entities. The return date of the subpoenas is May 6, 2019. Deutsche Bank is legally obligated to comply with these subpoenas and intends to begin so complying on that date.

Please contact the undersigned with any questions.

Best regards,

Steven R. Ross

Raphael A. Prober

cc: Rudy Giuliani

Exhibit C

From: Ross, Steven sross@AKINGUMP.COM
Subject: RE: Deutsche Bank AG
Date: April 22, 2019 at 3:53 PM
To: Patrick Strawbridge patrick@consvoymccarthy.com
Cc: Prober, Raphael rprober@akingump.com, Moyer, Thomas tmoyer@AKINGUMP.com



Patrick—During our Friday telephone conversation, you asked if we would identify the time period applicable to the information sought by the subpoenas the Bank received from the House Committees on Intelligence and Financial Services. In general, the subpoenas call for the Bank to produce responsive documents regarding your clients from January 1, 2010 through the present, with the exception of any documents related to account applications, opening documents, KYC, due diligence, and closing documents. For these documents the subpoena requires production without any time limitation.

In addition, I had copied Bob Roach of the House Financial Services Committee in an earlier written communication. I have been informed that the proper contact person at that committee should be Jennifer Read.

Steven R. Ross

AKIN GUMP STRAUSS HAUER & FELD LLP

1333 New Hampshire Avenue, N.W. | Washington, DC 20036-1564 | USA | Direct: [+1 202.887.4343](tel:+12028874343) | Internal: [24343](tel:24343)
Fax: +1 202.887.4288 | sross@akingump.com | akingump.com | [Bio](#)

Please note that on May 6, 2019, our address will change to 2001 K Street N.W., Washington, DC 20006

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

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

Plaintiffs,

v.

DEUTSCHE BANK AG and CAPITAL ONE
FINANCIAL CORP.,

Defendants,

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

Intervenor-Defendants.

Case No. 1:19-cv-03826-ER

DECLARATION OF TODD B. TATELMAN

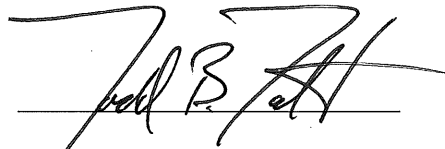
I, Todd B. Tatelman, pursuant to the provisions of 28 U.S.C. § 1746 declare and say:

1. I am the Deputy General Counsel in the Office of General Counsel of the U.S. House of Representatives. I have served in this capacity since 2018, and have served in the Office of General Counsel since 2011. I represent both the Committee on Financial Services and the Permanent Select Committee on Intelligence of the U.S. House of Representatives in this matter.

2. Attached as Exhibit A is a true and correct copy of the redacted subpoena to Deutsche Bank that I prepared and provided to plaintiffs' counsel.

3. Attached as Exhibit B is a true and correct copy of the subpoena to Capital One that I provided to plaintiffs' counsel.

I declare under penalty of perjury that the foregoing is true and correct. Executed on May 10, 2019, in Washington, D.C.

A handwritten signature in black ink, appearing to read "Todd B. Tatelman", written over a horizontal line.

Todd B. Tatelman

Exhibit A

SCHEDULE A

Custodian of Records
Deutsche Bank AG

The time period applicable to this subpoena is **January 1, 2010 through the present**, except for Items 1(i) and 6(i), for which there is no time limitation.

Please provide **complete and unredacted** copies of the following documents by **May 6, 2019**:

1. With respect to:

- [REDACTED]
- Donald J. Trump
- Donald Trump, Jr.
- Eric Trump
- Ivanka Trump
- [REDACTED]
- The Donald J. Trump Revocable Trust
- Trump Organization Inc.
- Trump Organization LLC
- DJT Holdings LLC
- DJT Holdings Managing Member LLC
- Trump Acquisition LLC
- Trump Acquisition Corp.
- any other name, alias, code name, code number, or entity used in lieu of any of the individuals or entities named above or members of their immediate family

or any account (including, but not limited to, any money market, securities, or trading account or any loan account or structure) in the name of any of the above-named individuals or entities (or any other name, alias, code name, code number, or entity used in lieu of any of the named individuals or entities) or members of their immediate family, individually or with other parties, as well as any account in which any of the above-named individuals or entities are or were, or have been identified as being, a trustee, settlor or grantor, beneficiary, or beneficial owner, or in which any of the individuals or entities have or have had in any way control over, individually or with others:

- i. any document related to account applications, opening documents, KYC, due diligence, and closing documents, including, but not limited to, any document identifying:
 - a. any financial relationship, transactions, or ties between the above-named individuals or entities and any foreign individual, entity, or government;
 - b. any interest held by any foreign individual, entity, or government in the above-named accounts;
 - c. any trustee, settlor, grantor, administrator, controlling party, protector, beneficiary, beneficial owner, or signatory; and
 - d. any relationship manager or account manager;

- ii. any monthly or other periodic account statement, including, but not limited to, any such document showing any incoming or outgoing funds transfers involving the above-named individuals, entities, and accounts and any foreign individual, entity, or government;
- iii. any document related to any domestic or international transfer of funds in the amount of \$10,000 or more, including, but not limited to, any wire transfer, check, cash letter, cashier's check, book entry transfer, or other such documents showing the originator, beneficiary, source of funds, and destination of such transfer, including whether any party to such transfer was a foreign individual, entity, or government;
- iv. any summary or analysis of domestic or international account deposits, withdrawals, and transfers, including, but not limited to, sources of deposits and the destination of withdrawals/transfers, including any wire transfer, check, cash letter, cashier's check, or other monetary instrument, including, but not limited to, any summary or analysis of financial relationships, transactions, or ties between the above-named individuals, entities, and accounts and any foreign individual, entity, or government;
- v. any document related to monitoring for, identifying, or evaluating possible suspicious activity, including suspicious activity identified by Deutsche Bank AG's surveillance/monitoring program or referred by any employee or third-party, including, but not limited to, suspicious activity relating to relationships, transactions, or ties between the above-named individuals, entities, and accounts and any foreign individual, entity, or government;
- vi. any document related to any investment, bond offering, line of credit, loan, mortgage, syndication, credit or loan restructuring, or any other credit arrangement or arrangement to raise or provide funding, including, but not limited to, those involving any foreign individual, entity, or government, or any other third party, including, but not limited to:
 - a. application and account opening documents, including, but not limited to, any such document showing any financial relationship, transactions, or ties between the above-named individuals or entities and any foreign individual, entity, or government;
 - b. KYC and due diligence, including, but not limited to, any such materials showing any financial relationship, transaction, or ties between the above-named individuals or entities and any foreign individual, entity, or government;
 - c. personal or third-party guarantees, including, but not limited to, any guarantee provided by a foreign individual, entity, or government;
 - d. collateral and appraisals for any underlying assets, including any asset in which a foreign individual, entity, or government has any interest and any asset located in a foreign country or jurisdiction;
 - e. any financial information provided by the borrower (or prospective borrower) or otherwise obtained by Deutsche Bank AG, including, but not limited to:
 - 1. financial statements (including those showing any revenue, interest, or other income generated from, or payments made to, any foreign individuals, entities, or governments);
 - 2. statements of net worth (including those showing any foreign assets and liabilities);
 - 3. debt schedules (including those showing any debts owed to any foreign individuals, entities, or governments);

4. business operating statements (including, but not limited to, those showing any revenue, interest, or other income generated from, or payments made to, any foreign individuals, entities, or governments);
 5. cash flow statements (including, but not limited to, those showing any revenue, interest, or other income generated from, or payments made to, any foreign individuals, entities, or governments);
 6. bank and brokerage account records (including those relating to any such accounts held at foreign banks or other foreign financial institutions);
 7. tax returns and schedules (including, but not limited to, those showing all foreign sources of income, all foreign debt payments, all interests held by the taxpayer in any foreign business entity or bank/brokerage account, and all interests held by any foreign individual, entity, or government in any of the taxpayer's business entities); and
 8. records of any bankruptcies;
- f. offering memoranda, including, but not limited to, any such document that shows any financial relationships, transactions, or ties between the above-named individuals, entities, or accounts and any foreign individual, entity, or government;
 - g. communications involving the underwriting or credit risk management units, credit risk committee, reputational risk committee, management and supervisory boards, or similar units or bodies, including any such communication relating to any financial relationships, transactions, or ties between the above-named individuals, entities, or accounts and any foreign individual, entity, or government; and
 - h. term sheets, including those showing the involvement of any foreign individual, entity, or government in the transaction;
 - i. risk assessments, risk ratings, and risk upgrades or downgrades, including those relating to any financial relationships, transactions, or ties between the above-named individuals, entities, or accounts and any foreign individual, entity, or government;
 - j. credit assessment memoranda and credit reports, including, but not limited to, those assessing any financial relationships, transactions, or ties between the above-named individuals, entities, or accounts and any foreign individual, entity, or government;
 - k. closing documents and loan documentation, including, but not limited to, any such document showing any role that any foreign individual, entity, or government had in the transaction; and
 - l. periodic loan statements, loan monitoring records, and records relating to any refinancing, restructuring, modification, repayment, forgiveness, foreclosure, or default, including any such document showing any role that any foreign individual, entity, or government had in the refinancing, restructuring, modification, repayment, forgiveness, foreclosure, or default;
- vii. any document related to any request for information issued or received by Deutsche Bank AG pursuant to Sections 314(a) or 314(b) of the USA PATRIOT Act, Pub. L. 107-56, including, but not limited to, any such document relating to any financial relationships,

- transactions, or ties between the above-named individuals, entities, or accounts and any foreign individual, entity, or government;
- viii. any document possessed or generated by, or communications involving, [REDACTED]

Selected Deutsche Bank Employees

- [REDACTED] relating to any of the above-named individuals, entities, accounts, or transactions, particularly, but not limited to, any such document or communication relating to any financial relationships, transactions, or ties between the above-named individuals, entities, or accounts and any foreign individual, entity, or government;
- ix. any document not otherwise kept in customary record-keeping systems (including, but not limited to, any document in any personal file or desk file), related to any of the above-named individuals, entities, or accounts and/or any issue or document identified in items i through viii above, including, but not limited to, any such document relating to any financial relationships, transactions, or ties between the above-named individuals, entities, or accounts and any foreign individual, entity, or government; and
- x. any document provided to, discussed with, or generated by any member of Deutsche Bank AG's Management Board, Supervisory Board, or Reputational Risk Committee related to any of the above-named individuals, entities, or accounts and/or any issue or document identified in items i through ix above, including, but not limited to, any such document relating to any financial relationships, transactions, or ties between the above-named individuals, entities, and accounts and any foreign individual, entity, or government.

2. Any document related to Deutsche Bank AG's [REDACTED] program, including, but not limited to, any report or analysis related to the decision to identify an individual or entity as a [REDACTED]; any tracking list of [REDACTED]; any document related to any changes in the [REDACTED] tracking lists; any periodic review of [REDACTED]; any internal correspondence, meeting minutes, or notes relating to [REDACTED]; any memoranda relating to [REDACTED] prepared for Deutsche Bank AG's internal credit and risk committees or management and supervisory boards; and any such document or communication relating to any financial relationship, transaction, or tie between any [REDACTED] (or any account held by a [REDACTED]) and any foreign individual, entity, or government.

3. Any document related to any review or analysis performed by Deutsche Bank AG entitled [REDACTED] or any similar study, review, or analysis, including, but not limited to, any such document relating to any financial relationship, transaction, or tie between the relevant account holders or customers and any foreign individual, entity, or government.

4. With respect to the following events or activities:

[REDACTED]

[REDACTED]

- i. any document related to any review or analysis of those events or activities conducted by or possessed by Deutsche Bank AG or its agents or representatives, including, but not limited to, any document related to any Deutsche Bank AG personnel facilitating or involved in any of those events or activities, the identity of any third-party individual or entity, or the beneficial owner of any third-party entity, involved in any of those events or activities;
- ii. any record of any transaction involved in, or related to, any of those events or activities;
- iii. any document related to any request for information issued or received pursuant to Sections 314(a) or 314(b) of the USA PATRIOT Act, Pub. L. 107-56; and
- iv. any document provided to, discussed with, or generated by any member of Deutsche Bank AG's management board or supervisory board related to any event or activity identified above and/or any issue or document identified in items i through iii above.

5. Any document related to any review, study, analysis, or communication to or from any U.S. federal, state, or local agency regarding any [REDACTED] or immediate family member, including, but not limited to, any government official or entity in which such an individual has been identified as a trustee, settlor, or grantor, beneficiary, beneficial owner, or has or had in any way control over, individually or with others.

6. With respect to:

[REDACTED]

or any account (including, but not limited to, any money market, securities, or trading account or any loan account or structure) in the name of any of the above-named entities, as well as any account in which any of the entities have or have had in any way control over, individually or with others:

- i. any document related to account applications, opening documents, KYC, due diligence, and closing documents, including any document identifying:
 - a. any trustee, settlor, grantor, administrator, controlling party, protector, beneficiary, beneficial owner, or signatory; or

- b. any relationship manager or account manager;
- ii. any monthly or other periodic account statement;
- iii. any document related to any domestic or international transfer of funds in the amount of \$10,000 or more, including, but not limited to, any wire transfer, check, cash letter, cashier's check, book entry transfer, or other document indicating the originator, beneficiary, source of funds, or destination of such transfer;
- iv. any summary or analysis of domestic and international account deposits, withdrawals, and transfers, including, but not limited to, sources of deposits and the destination of withdrawals/transfers, including any wire transfer, check, cash letter, cashier's check, or other monetary instrument;
- v. any document related to monitoring for, identifying, or evaluating possible suspicious activity, including suspicious activity identified by Deutsche Bank AG's surveillance/monitoring program or referred by any employee or third-party, including, but not limited to, possible suspicious activity relating to foreign individuals and entities and international funds transfers;
- vi. any document related to any agreement, business relationship, or business venture (including, but not limited to, joint underwritings, loans, financings or securitizations such as CDOs) between Deutsche Bank AG and any of the above-named entities;
- vii. any document related to any request for information issued or received by Deutsche Bank AG pursuant to Sections 314(a) or 314(b) of the USA PATRIOT Act, Pub. L. 107-56;
- viii. any document not otherwise kept in customary record-keeping systems (including, but not limited to, any document in any personal file or desk file), related to any entity identified above and/or any issue or document identified in items i through vii above; and
- ix. any document provided to, discussed with, or generated by any member of Deutsche Bank's Management Board, Supervisory Board, or Group Reputational Risk Committee related to any entity identified above and/or any issue or document identified in items i through viii above.

7. Any document related to any periodic, special, or other review conducted by or for Deutsche Bank AG of any of the individuals, entities, accounts, or transactions identified in items 1 and 6 above, including, but not limited to, any relationship or account history, exposure reports, particular transactions, management and servicing, or any other review associated with Deutsche Bank AG's policies and procedures for loan/credit risk analysis or accounts related to correspondent banking, private banking, public figures, politically prominent persons, or their family members, including, but not limited to, any such document relating to any financial relationships, transactions, or ties between the above-named individuals, entities, and accounts and any foreign individual, entity, or government.

8. Any document related to any communication sent or received by **Selected Deutsche Bank Employees** concerning any individual, entity, or any issue or document identified in items 1 through 7 above, including, but not limited to, any entity in which such an individual has been identified as a trustee, settlor, or grantor, beneficiary, beneficial owner, or has or had in any way control over, individually or with others, or any government official.

RESPONDING TO COMMITTEE SUBPOENAS

In responding to the document request, please apply the instructions and definitions set forth below:

INSTRUCTIONS

1. In complying with this request, you should produce all responsive documents in unredacted form that are in the possession, custody, or control or otherwise available to Deutsche Bank AG or its agents, employees, or representatives, regardless of whether the documents are possessed directly by you.
2. Documents responsive to the request should not be destroyed, modified, removed, transferred, or otherwise made inaccessible to the Committee.
3. In the event that any entity, organization, or individual named in the request has been, or is currently, known by any other name, the request should be read also to include such other names under that alternative identification.
4. Each document should be produced in a form that may be copied by standard copying machines.
5. When you produce documents, you should identify the paragraph(s) and/or clause(s) in the Committee's request to which the document responds.
6. Documents produced pursuant to this request should be produced in the order in which they appear in your files and should not be rearranged. Any documents that are stapled, clipped, or otherwise fastened together should not be separated. Documents produced in response to this request should be produced together with copies of file labels, dividers, or identifying markers with which they were associated when this request was issued. Indicate the office or division and person from whose files each document was produced. Documents produced on paper (those from paper files that you choose to produce as such) shall not contain any permanent fasteners (i.e., staples), but shall be separated based on the divisions between documents as it is maintained in the custodian's files by non-permanent fasteners (e.g., paper clips, binder clips, rubber bands) or a non-white slip sheet.
7. Each folder and box should be numbered, and a description of the contents of each folder and box, including the paragraph(s) and/or clause(s) of the request to which the documents are responsive, should be provided in an accompanying index.
8. Responsive documents must be produced regardless of whether any other person or entity possesses non-identical or identical copies of the same document.
9. The Committee requests electronic documents in addition to paper productions. If any of the requested information is available in machine-readable or electronic form (such as on a computer server, hard drive, CD, DVD, back up tape, or removable computer media such as thumb drives, flash drives, memory cards, and external hard drives), you should immediately

consult with Committee staff to determine the appropriate format in which to produce the information. Documents produced in electronic format should be organized, identified, and indexed electronically in a manner comparable to the organizational structure called for in (6) and (7) above.

10. Documents shall be produced in accordance with the attached Data Delivery Standards. Alternatively, all documents derived from word processing programs, email applications, instant message logs, spreadsheets, and wherever else practicable, shall be produced in text searchable PDF format. Spreadsheets shall also be provided in their native form. Audio and video files shall be produced in their native format, although picture files associated with email or word processing programs shall be produced in PDF format along with the document it is contained in or to which it is attached.
11. Other than native files produced along with TIFF images in accordance with the attached Data Delivery Standards, every page of material produced to the Committee, whether from paper files or as a text searchable PDF, must contain a unique Bates number. All files produced in PDF format shall be named according to the Bates range that the file contains (e.g. YourCo-00001 - YourCo- 00035.pdf).
12. With respect to the requested wire transfer records, please provide such records in Excel (.xls) format that is enabled (not "read only" format), with separate columns that show each wire transfer field, including, but not limited to, the following fields: "Payment Date," "Amount," "Ordering Customer" #1 through #4, "Ordering Bank" #1 through #5, "Debiting ID," "Debiting Address" #1 through #4, "Credit ID," "Credit Address" #1 through #4, "Account Party" #1 through #5, "Ultimate Beneficiary" #1 through #5, "Det_Payment" #1 through #4, and "Bank to Bank" #1 through #6.
13. If any document responsive to this request was, but no longer is, in your possession, custody, or control, or has been placed into the possession, custody, or control of any third party and cannot be provided in response to this request, you should identify the document (stating its date, author, subject and recipients) and explain the circumstances under which the document ceased to be in your possession, custody, or control, or was placed in the possession, custody, or control of a third party.
14. If any document responsive to this request was, but no longer is, in your possession, custody or control, state:
 - a. how the document was disposed of;
 - b. the name, current address, and telephone number of the person who currently has possession, custody or control over the document;
 - c. the date of disposition;
 - d. the name, current address, and telephone number of each person who authorized said disposition or who had or has knowledge of said disposition.
15. If any document responsive to this request cannot be located, describe with particularity the efforts made to locate the document and the specific reason for its disappearance, destruction or unavailability.

16. If a date or other descriptive detail set forth in this request referring to a document, communication, meeting, or other event is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, you should produce all documents which would be responsive as if the date or other descriptive detail were correct.

17. The request is continuing in nature and applies to any newly discovered document, regardless of the date of its creation. Any document not produced because it has not been located or discovered by the return date should be produced immediately upon location or discovery subsequent thereto.

18. You should consult with Committee majority staff regarding the method of delivery prior to sending any materials.

19. In the event that a responsive document is withheld on any basis, including a claim of privilege, you should provide a log containing the following information concerning every such document: (i) the reason the document is not being produced; (ii) the type of document; (iii) the general subject matter; (iv) the date, author and addressee; (v) the relationship of the author and addressee to each other; and (vi) any other description necessary to identify the document and to explain the basis for not producing the document. 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.

(a) Any objections or claims of privilege are waived if you fail to provide an explanation of why full compliance is not possible and a log identifying with specificity the ground(s) for withholding each withheld document prior to the request compliance date.

(b) Any assertion by a request 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.

20. If the request cannot be complied with in full, it should be complied with to the extent possible, which should include an explanation of why full compliance is not possible.

21. Upon completion of the document production, you must 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 which reasonably could contain responsive documents; (2) documents responsive to the request have not been destroyed, modified, removed, transferred, or otherwise made inaccessible to the Committee since the date of

receiving the Committee's request or in anticipation of receiving the Committee's request; and (3) all documents identified during the search that are responsive have been produced to the Committee, identified in a log provided to the Committee, as described in (18) above, or identified as provided in (12), (13) or (14) above.

22. When representing a witness or entity before the Committee in response to a document request or request for transcribed interview, counsel for the witness or entity must promptly submit to the Committee a notice of appearance specifying the following: (a) counsel's name, firm or organization, and contact information; and (b) each client represented by the counsel in connection with the proceeding. Submission of a notice of appearance constitutes acknowledgement that counsel is authorized to accept service of process by the Committee on behalf of such client(s), and that counsel is bound by and agrees to comply with all applicable House and Committee rules and regulations.

DEFINITIONS

1. The term “Deutsche Bank AG” includes, but is not limited to each of its, subsidiaries, affiliates, branches, divisions, partnerships, properties, groups, special purpose entities, joint ventures, predecessors, successors, or any other entity in which they have or had a controlling interest, and any current or former employee, officer, director, shareholder, partner, member, consultant, senior manager, manager, senior associate, staff employee, independent contractor, agent, attorney or other representative of any of those entities.
2. Each entities listed in items 1 and 6 above includes, but is not limited to, each of its parents, subsidiaries, affiliates, branches, divisions, partnerships, properties, groups, special purpose entities, joint ventures, predecessors, successors, or any other entity in which they have or had a controlling interest, and any current or former employee, officer, director, shareholder, partner, member, consultant, senior manager, manager, senior associate, staff employee, independent contractor, agent, attorney or other representative of any of those entities.
3. The term “documents in your possession, custody or control” means (a) documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, or representatives acting on your behalf; (b) documents that you have a legal right to obtain, that you have a right to copy, or to which you have access; and (c) documents that have been placed in the possession, custody, or control of any third party.
4. 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: agreements; papers; memoranda; correspondence; reports; studies; reviews; analyses; graphs; diagrams; photographs; charts; tabulations; presentations; marketing materials; working papers; records; records of interviews; desk files; notes; letters; notices; confirmations; telegrams; faxes, telexes, receipts; appraisals; interoffice and intra office communications; electronic mail (e-mail) and attachments; electronic messages; text messages; contracts; cables; recordings, notations or logs of any type of conversation, telephone call, meeting or other communication; bulletins; printed matter; computer printouts; teletype; invoices; transcripts; audio or video recordings; statistical or informational accumulations; data processing cards or worksheets; computer stored and/or generated documents; computer databases; computer disks and formats; machine readable electronic files, data or records maintained on a computer; instant messages; diaries; questionnaires and responses; data sheets; summaries; minutes; bills; accounts; estimates; projections; comparisons; messages; correspondence; electronically stored information and similar or related materials. 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.
5. The term “immediate family” means any parent, spouse, child, step child, daughter-in-law, or son-in-law.
6. The term “administrator or controlling party” means any individual, organization, or entity that established, managed, administered, represented, served as signatory for, or engaged in any transaction on behalf of, or in any way had control over any of, or any account or assets of, the entities identified in or responsive to any of the items above.

7. The term “entity” means a corporation, partnership, limited partnership, limited liability company, joint venture, business trust, or any other form or organization by which business or financial transactions are carried out.

8. 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 face to face, in meetings, by telephone, mail, telex, facsimile, computer, discussions, releases, delivery, or otherwise.

9. The terms “and” and “or” shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this subpoena any information which 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.

10. The terms “person” or “persons” mean natural persons, firms, partnerships, associations, limited liability corporations and companies, limited liability partnerships, corporations, subsidiaries, divisions, departments, joint ventures, proprietorships, syndicates, other legal, business or government entities, or any other organization or group of persons, and all subsidiaries, affiliates, divisions, departments, branches, and other units thereof.

11. The terms “referring” “related” “relating” or “concerning,” with respect to any given subject, mean anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with, or is in any manner whatsoever pertinent to that subject.

12. The term “employee” means agent, borrowed employee, casual employee, consultant, de facto employee, joint adventurer, loaned employee, part-time employee, permanent employee, provisional employee, contract employee, contractor, or any other type of service provider.

Exhibit B

SUBPOENA

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

Capital One Financial Corporation

To _____

You are hereby commanded to be and appear before the
Committee on Financial Services

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: Committee on Financial Services, Rayburn House Office Building, Room 2129
Date: May 6, 2019 Time: 12:00 PM

- 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: _____

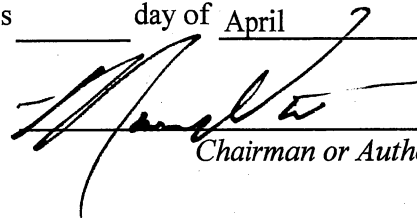
- to testify at a hearing touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: _____
Date: _____ Time: _____

To _____

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 April, 2019.


Chairman or Authorized Member

Attest:

Clerk

PROOF OF SERVICE

Subpoena for Capital One Financial Corporation

Address Capital One Financial Corporation, 1680 Capital One Drive, McLean, VA 22102-3491

before the Committee on Financial Services

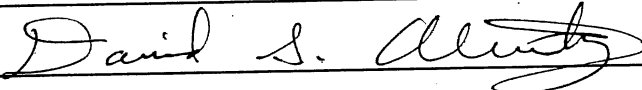
*U.S. House of Representatives
116th Congress*

Served by (print name) David Abramowitz

Title General Counsel and Parliamentarian, House Financial Services Committee

Manner of service Electronic Mail

Date April , 2019

Signature of Server 

Address Rayburn House Office Building, Room 2129, Washington, D.C. 20515

SCHEDULE A

Custodian of Records
Capital One

The time period applicable to this subpoena is **July 19, 2016 through the present**, except for Item “i.” and “ii.”, for which there is no time limitation.

Please provide **complete and unredacted** copies of the following documents by **May 6, 2019**:

1. With respect to:

The Donald J. Trump Revocable Trust;
The Trump Organization Inc.;
Trump Organization LLC;
The Trump Corporation;
Trump Old Post Office LLC;
Trump Old Post Office Member Corp.;
DJT Holdings LLC;
DJT Holdings Managing Member LLC;
OPO Hotel Manager LLC;
OPO Hotel Manager Member Corp.;
THC DC Restaurant Hospitality LLC;
Trump Acquisition LLC;
Trump Acquisition Corp.;
Trump International Hotels Management LLC;
Trump International Hotels Management Member Corp.;
Any parent, subsidiary, affiliate, joint venture, predecessor, or successor of the foregoing;
or
Any principal, including directors, shareholders, or officers, or any other representatives of the foregoing;

or any account (including, but not limited to, any securities or trading account) in the name of any of the above-named entities, as well as any account in which such entities are or were a beneficiary, or beneficial owner, or in which such entities have or have had in any way control over, individually or with others:

- i. any document related to account opening, due diligence, or closing;
- ii. any document that identifies, addresses or is related to the identification of any trustee, guarantor, settlor or grantor, administrator or controlling party, protector, beneficiary, beneficial owner or signatory;
- iii. any document that identifies any relationship manager or account manager;
- iv. any monthly or periodic statement showing line item detail for all account activity, including, but not limited to, intrabank transfers between any of the accounts, and images of all cancelled checks in excess of \$5,000;

- v. any summary record or analysis of account deposits and transfers, including, but not limited to, the sources of the deposits into those accounts and the destination of the transfers from those accounts, including any wire transfer (showing all wire field information and originator-to-beneficiary and bank-to-bank information), check, cash letter or other monetary instrument involving those accounts;
- vi. any document related to any transfer of funds in excess of \$10,000, including, but not limited to, any wire transfer, check, cash letter, or any document indicating the originator, beneficiary, intermediary, source of funds or destination of such transfer;
- vii. any document related to any possible suspicious activity identified by Capital One Financial Corporation's surveillance or monitoring system or program or referred by any employee or third-party;
- viii. any document relating to any annual, special, or other reviews of the accounts pursuant to Capital One Financial Corporation's policies and procedures related to the Bank Secrecy Act, anti-money-laundering, and compliance with guidance on Politically Exposed Persons and domestic or foreign public figures or their families;
- ix. any document, including, but not limited to, any personal file not otherwise kept in customary record-keeping systems, related to any loan or extension of credit requested by or provided to any of the above-named entities;
- x. any document related to any real estate transaction; and
- xi. any document related to, or provided in response to:
 - a. any request, subpoena, inquiry or investigation, by any U.S. federal or state agency;
 - b. any notice of administrative, civil, or criminal legal action;
 - c. any subpoena, search warrant, seizure warrant, summons, or other legal writ, notice, or order or request for information, property, or material, including, but not limited to, those issued pursuant to the USA PATRIOT Act, Pub. L. 107-56; Sections 314(a) or 314(b) of that Act, or any other tax, anti-money laundering or bank statute; and
 - d. any request for information made to or by a third party, including, but not limited to any government agency or financial institution.

RESPONDING TO COMMITTEE SUBPOENAS

In responding to the document request, please apply the instructions and definitions set forth below:

INSTRUCTIONS

1. In complying with this request, you should produce all responsive documents in unredacted form that are in the possession, custody, or control or otherwise available to Capital One Financial Corporation or its agents, employees, or representatives, regardless of whether the documents are possessed directly by you.
2. Documents responsive to the request should not be destroyed, modified, removed, transferred, or otherwise made inaccessible to the Committee.
3. In the event that any entity, organization, or individual named in the request has been, or is currently, known by any other name, the request should be read also to include such other names under that alternative identification.
4. Each document should be produced in a form that may be copied by standard copying machines.
5. When you produce documents, you should identify the paragraph(s) and/or clause(s) in the Committee's request to which the document responds.
6. Documents produced pursuant to this request should be produced in the order in which they appear in your files and should not be rearranged. Any documents that are stapled, clipped, or otherwise fastened together should not be separated. Documents produced in response to this request should be produced together with copies of file labels, dividers, or identifying markers with which they were associated when this request was issued. Indicate the office or division and person from whose files each document was produced. Documents produced on paper (those from paper files that you choose to produce as such) shall not contain any permanent fasteners (i.e., staples), but shall be separated based on the divisions between documents as it is maintained in the custodian's files by non-permanent fasteners (e.g., paper clips, binder clips, rubber bands) or a non-white slip sheet.
7. Each folder and box should be numbered, and a description of the contents of each folder and box, including the paragraph(s) and/or clause(s) of the request to which the documents are responsive, should be provided in an accompanying index.
8. Responsive documents must be produced regardless of whether any other person or entity possesses non-identical or identical copies of the same document.
9. The Committee requests electronic documents in addition to paper productions. If any of the requested information is available in machine-readable or electronic form (such as on a computer server, hard drive, CD, DVD, back up tape, or removable computer media such as thumb drives, flash drives, memory cards, and external hard drives), you should immediately

consult with Committee staff to determine the appropriate format in which to produce the information. Documents produced in electronic format should be organized, identified, and indexed electronically in a manner comparable to the organizational structure called for in (6) and (7) above.

10. Documents produced in electronic format should be produced as delimited text with images and native files in accordance with the attached Data Delivery Standards. Alternatively, all documents derived from word processing programs, email applications, instant message logs, spreadsheets, and wherever else practicable, shall be produced in text searchable PDF format. Spreadsheets shall also be provided in their native form. Audio and video files shall be produced in their native format, although picture files associated with email or word processing programs shall be produced in PDF format along with the document it is contained in or to which it is attached. The requested wire transfer records should be produced in Excel (.xls) format that is enabled (not "read only" format), with separate columns that show each wire transfer field, including, but not limited to, the following fields: "Payment Date," "Amount," "Ordering Customer" #1 through #4, "Ordering Bank" #1 through #5, "Debiting ID," "Debiting Address" #1 through #4, "Credit ID," "Credit Address" #1 through #4, "Account Party" #1 through #5, "Ultimate Beneficiary" #1 through #5, "Det_Payment" #1 through #4, and "Bank to Bank" #1 through #6.

11. Other than native files produced along with TIFF images in accordance with the attached Data Delivery Standards, every page of material produced to the Committee, whether from paper files or as a text searchable PDF, must contain a unique Bates number. All files produced in PDF format shall be named according to the Bates range that the file contains (e.g. YourCo-00001 - YourCo- 00035.pdf).

12. If any document responsive to this request was, but no longer is, in your possession, custody, or control, or has been placed into the possession, custody, or control of any third party and cannot be provided in response to this request, you should identify the document (stating its date, author, subject and recipients) and explain the circumstances under which the document ceased to be in your possession, custody, or control, or was placed in the possession, custody, or control of a third party.

13. If any document responsive to this request was, but no longer is, in your possession, custody or control, state:

- a. how the document was disposed of;
- b. the name, current address, and telephone number of the person who currently has possession, custody or control over the document;
- c. the date of disposition;
- d. the name, current address, and telephone number of each person who authorized said disposition or who had or has knowledge of said disposition.

14. If any document responsive to this request cannot be located, describe with particularity the efforts made to locate the document and the specific reason for its disappearance, destruction or unavailability.

15. If a date or other descriptive detail set forth in this request referring to a document, communication, meeting, or other event is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, you should produce all documents which would be responsive as if the date or other descriptive detail were correct.

16. The request is continuing in nature and applies to any newly discovered document, regardless of the date of its creation. Any document not produced because it has not been located or discovered by the return date should be produced immediately upon location or discovery subsequent thereto.

17. You should consult with Committee majority staff regarding the method of delivery prior to sending any materials.

18. In the event that a responsive document is withheld on any basis, including a claim of privilege, you should provide a log containing the following information concerning every such document: (i) the reason the document is not being produced; (ii) the type of document; (iii) the general subject matter; (iv) the date, author and addressee; (v) the relationship of the author and addressee to each other; and (vi) any other description necessary to identify the document and to explain the basis for not producing the document. 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.

- (a) Any objections or claims of privilege are waived if you fail to provide an explanation of why full compliance is not possible and a log identifying with specificity the ground(s) for withholding each withheld document prior to the request compliance date.
- (b) Any assertion by a request 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.

19. If the request cannot be complied with in full, it should be complied with to the extent possible, which should include an explanation of why full compliance is not possible.

20. Upon completion of the document production, you must 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 which reasonably could contain responsive documents; (2) documents responsive to the request have not been destroyed, modified, removed, transferred, or otherwise made inaccessible to the Committee since the date of receiving the Committee's request or in anticipation of receiving the Committee's request;

and (3) all documents identified during the search that are responsive have been produced to the Committee, identified in a log provided to the Committee, as described in (18) above, or identified as provided in (12), (13) or (14) above.

21. When representing a witness or entity before the Committee in response to a document request or request for transcribed interview, counsel for the witness or entity must promptly submit to the Committee a notice of appearance specifying the following: (a) counsel's name, firm or organization, and contact information; and (b) each client represented by the counsel in connection with the proceeding. Submission of a notice of appearance constitutes acknowledgement that counsel is authorized to accept service of process by the Committee on behalf of such client(s), and that counsel is bound by and agrees to comply with all applicable House and Committee rules and regulations.

DEFINITIONS

1. The term "Capital One Financial Corporation" includes, but is not limited to Capital One Financial Corporation and each of its subsidiaries, affiliates, branches, divisions, partnerships, properties, groups, special purpose entities, joint ventures, predecessors, successors, or any other entity in which they have or had a controlling interest, and any current or former employee, officer, director, shareholder, partner, member, consultant, senior manager, manager, senior associate, staff employee, independent contractor, agent, attorney or other representative of any of those entities.
2. Each entities listed in items 1 and 6 above includes, but is not limited to, each of its parents, subsidiaries, affiliates, branches, divisions, partnerships, properties, groups, special purpose entities, joint ventures, predecessors, successors, or any other entity in which they have or had a controlling interest, and any current or former employee, officer, director, shareholder, partner, member, consultant, senior manager, manager, senior associate, staff employee, independent contractor, agent, attorney or other representative of any of those entities.
3. The term "documents in your possession, custody or control" means (a) documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, or representatives acting on your behalf; (b) documents that you have a legal right to obtain, that you have a right to copy, or to which you have access; and (c) documents that have been placed in the possession, custody, or control of any third party.
4. 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: agreements; papers; memoranda; correspondence; reports; studies; reviews; analyses; graphs; diagrams; photographs; charts; tabulations; presentations; marketing materials; working papers; records; records of interviews; desk files; notes; letters; notices; confirmations; telegrams; faxes, telexes, receipts; appraisals; interoffice and intra office communications; electronic mail (e-mail) and attachments; electronic messages; text messages; contracts; cables; recordings, notations or logs of any type of conversation, telephone call, meeting or other communication; bulletins; printed matter; computer printouts; teletype; invoices; transcripts; audio or video recordings; statistical or informational accumulations; data processing cards or worksheets; computer stored and/or generated documents; computer databases; computer disks and formats; machine readable electronic files, data or records maintained on a computer; instant messages; diaries; questionnaires and responses; data sheets; summaries; minutes; bills; accounts; estimates; projections; comparisons; messages; correspondence; electronically stored information and similar or related materials. 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.
5. The term "immediate family" means any parent, spouse, child, step child, daughter-in-law, or son-in-law.
6. The term "administrator or controlling party" means any individual, organization, or entity that established, managed, administered, represented, served as signatory for, or engaged in any transaction on behalf of, or in any way had control over any of, or any account or assets of, the entities identified in or responsive to any of the items above.

7. The term “entity” means a corporation, partnership, limited partnership, limited liability company, joint venture, business trust, or any other form or organization by which business or financial transactions are carried out.

8. 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 face to face, in meetings, by telephone, mail, telex, facsimile, computer, discussions, releases, delivery, or otherwise.

9. The terms “and” and “or” shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this subpoena any information which 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.

10. The terms “person” or “persons” mean natural persons, firms, partnerships, associations, limited liability corporations and companies, limited liability partnerships, corporations, subsidiaries, divisions, departments, joint ventures, proprietorships, syndicates, other legal, business or government entities, or any other organization or group of persons, and all subsidiaries, affiliates, divisions, departments, branches, and other units thereof.

11. The terms or “relating” “concerning” with respect to any given subject, mean anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with, or is in any manner whatsoever pertinent to that subject.

12. The term “employee” means agent, borrowed employee, casual employee, consultant, de facto employee, joint adventurer, loaned employee, part-time employee, permanent employee, provisional employee, contract employee, contractor, or any other type of service provider.

In responding to the subpoena, please apply the instructions and definitions set forth below:

Instructions

The documents subpoenaed include all those that are in the custody, control or possession, or within the right of custody, control or possession, of Capital One or its agents, employees, or representatives.

If the subpoena cannot be complied with in full, it shall be complied with to the extent possible, with an explanation of why full compliance is not possible. Any document withheld on the basis of privilege shall be identified on a privilege log submitted with the responses to this subpoena. The log shall state the date of the document, its author, his or her occupation and employer, all recipients, the occupation and employer of each recipient, the subject matter, the privilege claimed and a brief explanation of the basis of the claim of privilege. If any document responsive to this subpoena was, but no longer is, in your possession, custody, or control, identify the

document and explain the circumstances by which it ceased to be in your possession, custody, or control.

Documents shall be produced as delimited text with images and native files in accordance with the attached Data Delivery Standards.

Alternatively, all documents derived from word processing programs, email applications, instant message logs, spreadsheets, and wherever else practicable, shall be produced in text searchable PDF format. Spreadsheets shall also be provided in their native form. Audio and video files shall be produced in their native format, although picture files associated with email or word processing programs shall be produced in PDF format along with the document it is contained in or to which it is attached.

Other than native files produced along with TIFF images in accordance with the attached Data Delivery Standards, every page of material produced to the Committee, whether from paper files or as a text searchable PDF, must contain a unique Bates number. All files produced in PDF format shall be named according to the Bates range that the file contains (e.g. YourCo-00001 - YourCo- 00035.pdf).

Documents produced on paper (those from paper files that you choose to produce as such) shall not contain any permanent fasteners (i.e., staples), but shall be separated based on the divisions between documents as it is maintained in the custodian's files by non-permanent fasteners (e.g., paper clips, binder clips, rubber bands) or a non-white slip sheet.

DATA DELIVERY STANDARDS

Record productions shall be prepared according to, and strictly adhere to, the following standards:

1. Records produced shall be organized, identified, and indexed electronically.
2. Only alphanumeric characters and the underscore (“_”) character are permitted in file and folder names. Special characters are not permitted.
3. Two sets of records shall be delivered, one set to the Majority Staff and one set to the Minority Staff. To the extent the Minority Staff does not have an electronic record review platform, records shall be produced to the Minority Staff in searchable PDF format and shall be produced consistent with the instructions specified in this schedule to the maximum extent practicable.
4. Production media and produced records shall not be encrypted, contain any password protections, or have any limitations that restrict access and use.
5. Records shall be produced to the Committee on one or more CDs, memory sticks, thumb drives, or USB hard drives. Production media shall be labeled with the following information: Case Number, Production Date, Producing Party, Bates Range.
6. Records produced to the Committee shall include an index describing the contents of the production. To the extent that more than one CD, hard drive, memory stick, thumb drive, box, or folder is produced, each CD, hard drive, memory stick, thumb drive, box, or folder shall contain an index describing its contents.
7. All records shall be Bates-stamped sequentially and produced sequentially.
8. When you produce records, you shall identify the paragraph or number in the Committee’s Request to which the records respond and add a metadata tag listing that paragraph or number in accordance with **Appendix A**.
9.
 - a. All submissions must be organized by custodian unless otherwise instructed.
 - b. Productions shall include:
 1. A Concordance Data (.DAT) Load File in accordance with metadata fields as defined in **Appendix A**.
 2. A Standard Format Opticon Image Cross-Reference File (.OPT) to link produced images to the records contained in the .DAT file.

3. A file (can be Microsoft Word, Microsoft Excel, or Adobe PDF) defining the fields and character lengths of the load file.
- c. The production format shall include images, text, and native electronic files. Electronic files must be produced in their native format, i.e., the format in which they are ordinarily used and maintained during the normal course of business. For example, a Microsoft Excel file must be produced as a Microsoft Excel file rather than an image of a spreadsheet. **NOTE:** An Adobe PDF file representing a printed copy of another file format (such as Word Document or Webpage) is NOT considered a native file unless the record was initially created as a PDF.

1. Image Guidelines:

1. Single or multi page TIFF files.
2. All TIFF images must have a unique file name, i.e., Bates Number
3. Images must be endorsed with sequential Bates numbers in the lower right corner of each image.

2. Text Guidelines:

1. All text shall be produced as separate text files; not inline within the .DAT file.
2. Relative paths shall be used to link the associated text file (FIELD: TEXTPATH) to the record contained in the load file.
3. Associated text files shall be named as the BEGBATES field of each record.

3. Native File Guidelines:

1. Copies of original email and native file records/attachments must be included for all electronic productions.
2. Native file records must be named per the BEGBATES field.
3. Relative paths shall be used to link the associated native file (FIELD: NATIVEFILELINK) to the record contained in the load file.
4. Associated native files shall be named as the BEGBATES field of each record.

- d. All record family groups, *i.e.*, email attachments, embedded files, etc., should be produced together and children files should follow parent files sequentially in the Bates numbering.
- e. Only 1 load file and one Opticon image reference file shall be produced per production volume.
- f. All extracted text shall be produced as separate text files.
- g. Record numbers in the load file should match record Bates numbers and TIFF file names.
- h. All electronic record produced to the Committee should include the fields of metadata listed in **Appendix A**.

Appendix A

Production Load File Formatting and Delimiters:

- The first line shall be a header row containing field names.
- Load file delimiters shall be in accordance with the following:
 - Field Separator: ¶ (20) Text Qualifier: þ (254)
 - Newline: \n (10) Multi-Value Separator: ; (59)
 - Nested Value Separator: \ (92)
- All Date / Time Data shall be split into two separate fields (see below).
 - Date Format: mm/dd/yyyy—*i.e.*, 05/18/2015
 - Time Format: hh:mm:ss A—*i.e.*, 08:39:12 AM

Required Metadata Fields

Field Name	Sample Data	Description
FIRSTBATES	EDC0000001	First Bates number of native file record/email
LASTBATES	EDC0000001	Last Bates number of native file record/email **The LASTBATES field should be populated for single page records/emails.
ATTACHRANGE	EDC0000001– EDC0000015	Bates number of the first page of the parent record to the Bates number of the last page of the last attachment “child” record
BEGATTACH	EDC0000001	First Bates number of attachment range
ENDATTACH	EDC0000015	Last Bates number of attachment range

Field Name	Sample Data	Description
CUSTODIAN	Smith, John	Email: mailbox where the email resided Attachment: Individual from whom the record originated
FROM	John Smith	Email: Sender Native: Author(s) of record **semi-colon should be used to separate multiple entries
TO	Coffman, Janice; LeeW [mailto:LeeW@MSN.com]	Recipient(s) **semi-colon should be used to separate multiple entries
CC	Frank Thompson [mailto:frank_Thompson@cdt.com]	Carbon copy recipient(s) **semi-colon should be used to separate multiple entries
BCC	John Cain	Blind carbon copy recipient(s) **semi-colon should be used to separate multiple entries
SUBJECT	Board Meeting Minutes	Email: Subject line of the email Native: Title of record (if available)
DATE_SENT	10/12/2010	Email: Date the email was sent Native: (empty)
TIME_SENT/TIME_ZONE	07:05 PM GMT	Email: Time the email was sent/ Time zone in which the emails were standardized during conversion. Native: (empty) **This data must be a separate field and cannot be combined with the DATE_SENT field
TIME_ZONE	GMT	The time zone in which the emails were standardized during conversion. Email: Time zone Native: (empty)
NATIVEFILELINK	D:\001\ EDC0000001.msg	Hyperlink to the email or native file record **The linked file must be named per the FIRSTBATES number
MIME_TYPE	MSG	The content type of an Email or native file record as identified/extracted from the header

Field Name	Sample Data	Description
FILE_EXTEN	MSG	The file type extension representing the Email or native file record; will vary depending on the email format
AUTHOR	John Smith	Email: (empty) Native: Author of the record
DATE_CREATED	10/10/2010	Email: (empty) Native: Date the record was created
TIME_CREATED	10:25 AM	Email: (empty) Native: Time the record was created **This data must be a separate field and cannot be combined with the DATE_CREATED field
DATE_MOD	10/12/2010	Email: (empty) Native: Date the record was last modified
TIME_MOD	07:00 PM	Email: (empty) Native: Time the record was last modified **This data must be a separate field and cannot be combined with the DATE_MOD field
DATE_ACCESSD	10/12/2010	Email: (empty) Native: Date the record was last accessed
TIME_ACCESSD	07:00 PM	Email: (empty) Native: Time the record was last accessed **This data must be a separate field and cannot be combined with the DATE_ACCESSD field
PRINTED_DATE	10/12/2010	Email: (empty) Native: Date the record was last printed
NATIVEFILESIZ E	5,952	Size of native file record/email in KB **Use only whole numbers
PGCOUNT	1	Number of pages in native file record/email
PATH	J:\Shared\Smith J\October Agenda.doc	Email: (empty) Native: Path where native file record was stored including original file name
INTFILEPATH	Personal Folders\Deleted Items\Board Meeting Minutes.msg	Email: original location of email including original file name Native: (empty)
INTMSGID	<000805c2c71b\$7 5977050\$cb 8306d1@MSN>	Email: Unique Message ID Native: (empty)

Field Name	Sample Data	Description
MD5HASH	d131dd02c5e6eec 4693d9a069 8aff95c 2fcab58712467ea b4004583eb 8fb7f89	MD5 Hash value of the record
TEXTPATH	\TEXT\AAA0001 .txt	Path to the record's text file that contains extracted text to be used for processing. Every record has a relative path to its text file in this field. Note: These paths may also be fully qualified; and thus do not have to be relative.
NATIVEFILEPATH	\NATIVES\MES SAGE1.msg; \NATIVES\ATT ACHMENT1.doc	Path to the record's native file. Every record has a relative path to its native file in this field. Note: These paths may also be fully qualified; and thus do not have to be relative.
HANDWRITTEN	YES	Field should be marked "YES" if the record has any handwritten notes or other text that is not contained in the text file
REDACTED	YES	Field should be marked "YES" if the record contains any redactions, "NO" otherwise

Metadata Fields Required Upon Specific Request

TAGS	FirstPass\Respon sive; FirstPass\ForQC	If requested—a list of tags assigned to the record. Multiple tags are separated by the multi-value separator, for example: "A; B; C", and nested tags are denoted using the nested value separator, for example: "X\YZ". Tags for attachments will appear under the custom field "ATTACHMENT_TAGS".
FOLDERS	JohnDoeDocs\Fir stPass	If requested—a list of folders of which the record is a part. Multiple folders are separated by the multi-value separator, for example: "A; B; C", and nested folders are denoted using the nested value separator, for example: "X\YZ". Folders for attachments will appear under the custom field "ATTACHMENT_FOLDERS".

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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

3 -----x
4 DONALD J. TRUMP, et al.,

5 Plaintiffs,

New York, N.Y.

6 v.

19 Civ. 3826 (ER)

7 DEUTSCHE BANK, AG, et al.,

8 Defendants,

9 COMMITTEE ON FINANCIAL SERVICES
10 OF THE U.S. HOUSE OF
11 REPRESENTATIVES,

12 Intervenor Defendant,

13 PERMAMENT SELECT COMMITTEE ON
14 INTELLIGENCE OF THE U.S. HOUSE OF
15 REPRESENTATIVES,

16 Intervenor Defendant.

17 -----x

Conference

18 May 22, 2019
19 2:30 p.m.

20 Before:

21 HON. EDGARDO RAMOS,

22 District Judge

23 APPEARANCES

24 CONSOVOY McCARTHY, PLLC
25 Attorneys for Plaintiffs
BY: PATRICK STRAWBRIDGE
CAMERON T. NORRIS

MUKASEY FRENCHMAN & SKLAROFF, LLP
Attorneys for Trump Business Entity Plaintiffs
BY: MARC L. MUKASEY

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APPEARANCES
(continued)

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U.S. HOUSE OF REPRESENTATIVES
Attorneys for Intervenor Defendants
BY: DOUGLAS N. LETTER

ALSO PRESENT:

DANIEL S. NOBLE, Senior Counsel for Investigations
U.S. House of Representatives
Permanent Select Committee
on Intelligence

JENNIFER L. READ, Senior Counsel
U.S. House of Representatives
Committee on Financial Services

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1 (Case called)

2 THE DEPUTY CLERK: Counsel, please state your names
3 for the record.

4 MR. MUKASEY: Good afternoon, your Honor. Marc
5 Mukasey, from the law firm of Mukasey Frenchman & Sklaroff, for
6 what I will call the business entity plaintiffs.

7 With me are Cam Norris and Patrick Strawbridge from
8 the Consovoy McCarthy law firm in D.C. Mr. Strawbridge is
9 going to be handling most of the argument today, Judge.

10 THE COURT: Very well.

11 MR. LETTER: Good morning, your Honor. I am Douglas
12 Letter. I am the general counsel of the United States House of
13 Representatives. With me today is Jennifer Read from the
14 Financial Services Committee of the House and Mr. Daniel Noble
15 from the Intelligence Committee of the House.

16 THE COURT: Good afternoon.

17 MR. MURPHY: Good afternoon, your Honor. My name is
18 James Murphy, of the firm of Murphy & McGonigle. I represent
19 Capital One Financial Corporation. My partner Steve Feldman,
20 also of Murphy & McGonigle, is here with us.

21 MR. ROSS: Good afternoon, your Honor. Steven Ross,
22 from Akin Gump Strauss Hauer & Feld, on behalf of Deutsche
23 Bank, and with me is my partner Rafi Prober, also on behalf of
24 the bank.

25 THE COURT: Good afternoon to you all.

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1 This matter is on for a hearing on the preliminary
2 injunction application by the plaintiffs, the Donald Trump
3 organizations and the various Trump family members.

4 So, Mr. Strawbridge, whenever you are ready.

5 MR. STRAWBRIDGE: Thank you, your Honor. We
6 appreciate the opportunity to be heard this afternoon.

7 This case requires the court to confront serious
8 questions about the outer reaches of the power of a committee
9 of the House of Representatives to obtain decades worth of
10 private financial information about any individual that its
11 members decide would be a useful case study for some potential
12 legislation.

13 For more than a century, the courts have reiterated
14 time and time again that Congress's powers of investigation,
15 although substantial, are not unlimited. Congress cannot
16 assume the role of the executive branch, in law enforcement, it
17 cannot seek to expose for the sake of exposure, it cannot seek
18 information for which it lacks the authority to act, a
19 committee cannot exceed the scope of its jurisdiction, and it
20 cannot compel production of information that is not pertinent
21 to its stated and valid legislative purpose.

22 The subpoenas challenged here transgress those limits.
23 With startling breadth, they seek private records of virtually
24 every banking transaction or interaction by not only the named
25 plaintiffs, but in some cases their children, their spouses,

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1 their in-laws, and in the present case even his grandchildren.
2 Every debit card transaction, every account application, every
3 internal report, every loan document, they want it all. In
4 many cases, they say want these documents without time
5 limitation. In other cases, they only want them for the last
6 ten or in some cases three years. These subpoenas are the
7 epitome of an inquiry into private or personal matters. If
8 Congress can make a case study out of the plaintiffs, they can
9 make a case study out of me, out of my friends on the other
10 side, or anyone in this courtroom, including, unfortunately,
11 your Honor.

12 THE COURT: I know that the House lawyer used the term
13 "case study" in their papers. They are probably sorry about
14 it. But, in fact, don't they provide a number of valid
15 legislative reasons for asking for these documents and for the
16 Trump family documents in particular?

17 MR. STRAWBRIDGE: No, your Honor. We do not believe
18 that they do. And we will say that they generally aver to a
19 number of investigations or goals or potential legislation.
20 But when it comes time to actually talk about what purposes
21 these subpoenas, these investigative acts, what legitimate
22 legislative purpose they advance, they are actually quite
23 specific and they are somewhat narrow and they differ a little
24 bit depending upon which committee, which I am happy to talk
25 about if your Honor would like.

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1 THE COURT: Sure.

2 MR. STRAWBRIDGE: Let's start with the Capital One
3 subpoena, which is only issued by the Financial Services
4 Committee. The purpose -- and this is on page 16 of their
5 opposition, they actually assert what this particular subpoena
6 is designed to advance -- is, again, invoking language to learn
7 more about unsafe lending practices and money laundering and
8 there is the reference to the fact that they might make some
9 legislative changes to the Bank Secrecy Act or the money
10 laundering statutes.

11 That is, on its face -- and I would, indeed, encourage
12 the court to look at the House resolution that was cited by the
13 House with respect to supporting that purpose -- that is law
14 enforcement activity, and you can look at the face of the
15 subpoena and distill as much.

16 If you look at the Capital One subpoena, among other
17 things, it asks for all documents concerning transfers in
18 excess of \$10,000 -- I'm sure your Honor is familiar with the
19 significance of the 10,000 limit and what that means --
20 documents concerning any potential violations of various
21 statutes, documents that are related to or produced in response
22 to state or local law enforcement investigations. If the U.S.
23 Attorney's office in the Southern District of New York wanted
24 to launch the broadest possible investigative warrant of the
25 plaintiffs in this case, it could not ask for more than it has

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1 asked for in the Capital One subpoena, and that's a prime
2 example of how, if you look at the face of the subpoena, the
3 legislative purpose that Congress is using or arguing to
4 advance that particular subpoena is plainly invalid, it plainly
5 encroaches upon the executive's responsibilities for law
6 enforcement.

7 THE COURT: Certainly those requests do touch upon
8 matters that are, maybe not strictly speaking, but generally
9 speaking, within the ambit of law enforcement, but it is also
10 part of the job of Congress, is it not, to continually, if need
11 be, look at the current laws, see whether they are doing the
12 job they were meant to do and, if not, make appropriate
13 accommodations?

14 MR. STRAWBRIDGE: That is true, but the courts have
15 also noted -- and *Shelton* is very clear about this -- it cannot
16 simply tack on the notion that you are interested in some type
17 of remedial legislation and use that to provide cover for what
18 is essentially a law enforcement investigation. When you look
19 at both who the people are that are targeted and the extent of
20 the documents that the House is seeking, it is plain that that
21 is the activity that they are trying to do.

22 Again, I will refer your Honor to the House
23 resolution. It specifically talks about trying to encourage
24 enforcement of money laundering and Bank Secrecy Act. It is
25 actually the last line in the House resolution that they cite.

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1 And right there you have, on the face of the legislative
2 record, an avowed improper legislative purpose, which *McGrain*
3 specifically says --

4 THE COURT: What does the specific language say?

5 MR. STRAWBRIDGE: This is House Resolution 206. There
6 are a number of whereas clauses and, at the end, No. 4 is that
7 the committee urges financial institutions to comply with the
8 Bank Secrecy Act and the anti-money laundering laws and
9 regulations and affirms that financial institutions and
10 individuals should be held accountable for money laundering and
11 terror financing crimes and violations." It is hard to imagine
12 what that is other than an announced intention to --

13 THE COURT: Or an encouragement to banks and
14 particular individuals, probably individuals, to follow the
15 law. Why isn't that an appropriate thing for Congress to be
16 urging?

17 MR. STRAWBRIDGE: It is certainly an appropriate thing
18 for Congress to urge. I would hope we would all urge that.
19 But it changes when they actually put a series of document
20 requests into a subpoena and seek to compel production of
21 materials that touch upon individuals who might be -- which, I
22 think, when you look at the face of the subpoena, is clearly
23 trying to investigate individuals and entities in this case for
24 violation of those acts. At that point it's law enforcement,
25 and at that point the cases going back 150 years, all the way

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1 back to the original case, *Kilbourn*, make it clear that is not
2 the province of Congress.

3 It is certainly not when we are talking about private
4 affairs. I think it is important to emphasize that this is not
5 a subpoena about government activity. This is not a subpoena
6 to people about their actions in official office. This is a
7 subpoena for private financial records, and it is not backed by
8 a valid legislative purpose. It amounts to attempted law
9 enforcement, and so it fails on those grounds alone.

10 THE COURT: Well, if you take my argument, assume for
11 the sake of argument that it is a valid legislative purpose.
12 If so, is a subpoena directed to an individual with respect to
13 their banking records, where the Congress has been made aware
14 that the individual has engaged in transactions with this
15 particular bank in a fashion that may be violative of the
16 current laws?

17 MR. STRAWBRIDGE: Well, investigation of crimes is no
18 less of an executive function than the actual prosecution of
19 them. So to the extent that what they are attempting to do is
20 to investigate whether or not criminal conduct has occurred,
21 that is an executive function, and all the cases say the
22 legislature does not have a general power to inquire into
23 private records to do so.

24 THE COURT: But hasn't the Supreme Court said over and
25 over again that the examination about the current state of

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1 affairs, the current state of law enforcement, the current
2 state of the extent to which elected officials are complying
3 with their ethical obligations is an appropriate function for
4 Congress to take?

5 MR. STRAWBRIDGE: So let me break that into two parts
6 because the answer changes a little bit based on your Honor's
7 question.

8 With the last thing you said, ethical violations,
9 whatever power Congress has to inquire into that, that is
10 outside the jurisdiction of the committees that issued these
11 subpoenas. So as a general matter, that is off the table with
12 respect to the subpoenas.

13 With respect to Congress's ability to serving the
14 state, of course. The courts have made clear that Congress has
15 a general ability to gather useful information that might
16 advance some actual legislative act, usually legislation.
17 Legislation is basically the only act that is identified here
18 by the House.

19 But, again, the courts are equally as clear it cannot
20 cross the line into law enforcement investigation, particularly
21 when you are dealing with private records and private affairs.
22 So in that case these subpoenas transgress those limitations.

23 I will also note -- I will just note as an aside,
24 before I move on to the Deutsche Bank subpoena, the RFPA is an
25 additional independent reason. If your Honor wants to talk

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1 about RFPA somewhat later in the case, I will bracket that,
2 because it obviously applies to both subpoenas and the clients.

3 With respect to the Deutsche Bank subpoena, it suffers
4 from many of the same problems that the Capital One subpoena
5 has. It is equally as broad. In fact, it is broader. It goes
6 back ten years as a presumptive limit. It goes back even
7 further in some cases. It is a little bit broader in terms of
8 the named individuals who it seeks to discover information
9 from.

10 And to the extent that it was issued by the Financial
11 Services Committee, my understanding of the record is that that
12 subpoena was essentially issued twice. Identical subpoenas
13 were issued by the Financial Services Committee and by the
14 Intelligence Committee. Those committees obviously have
15 different jurisdictional missions. They have different limits
16 on the powers that they can exercise as committees of Congress.
17 The subpoenas are the same, but to the extent that the
18 Financial Services Committee has issued that subpoena, it
19 suffers from the same defects and essentially amounts to
20 investigatory --

21 THE COURT: You also complained about the vast breadth
22 of the subpoenas and the fact that they reach to certain of
23 Mr. Trump's children and grandchildren. But doesn't the way in
24 which the Trump organization is structured require, if a
25 legitimate investigation is going to be conducted, that

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1 includes the subpoenaing of these records? Doesn't it require
2 that it reaches the family members because of the closely held
3 structure of the Trump organizations?

4 MR. STRAWBRIDGE: So obviously I don't agree that it
5 is a legitimate investigation that can be had by Congress in
6 the first place. But even if it was, if that's a basis to do
7 it, no, I think that at some point when we are talking about
8 the private affairs of officials, Congress lacks general power
9 to inquire into private affairs, and there should be,
10 obviously, some limitation.

11 This is the concept of pertinence that pops up in the
12 case law, and I would encourage your Honor to particularly
13 focus on the *Bergman* case, which is a case out of the Southern
14 District involved in an express attempt to narrow, in fact, a
15 successful attempt by a judge in this court to narrow a
16 congressional subpoena.

17 It is one thing to say that we are gathering
18 information as part of a case study or to make some sort of
19 assessment of something to the intelligence system or to the
20 political process, but I don't think that that purpose can mesh
21 when you actually look at the text in the face of the
22 investigative subpoena that's issued. They are literally
23 looking for records about minors. They are literally looking
24 for records about in-laws.

25 If that is a justification, it is a justification to

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1 reach everybody in the country's records. Anyone can be a case
2 study. Anyone can have close relationships with their children
3 or with their in-laws. There can always be a hypothetical
4 possibility that somebody is receiving foreign payments,
5 somebody is involved in some sort of banking transaction, and
6 it simply can't be the case that that recitation alone is
7 enough to justify the kind of thorough and impressive
8 investigation into individual records, private individuals,
9 that these subpoenas do.

10 I will note that obviously the Intelligence Committee
11 has powers that are related to monitoring the activities of the
12 intelligence agencies and those types of affairs, but their
13 power does not extend to essentially running parallel
14 intelligence investigations themselves.

15 THE COURT: I'm sorry. So you are suggesting that the
16 committee is running a parallel intelligence investigation with
17 whom?

18 MR. STRAWBRIDGE: Well, I would suggest that the
19 subpoena indicates that the act that they are trying to
20 undertake is essentially to run their own intelligence
21 investigation, to do their own surveillance, to obtain their
22 own records about individual private conduct and activity.

23 THE COURT: Why isn't that an appropriate legislative
24 purpose if what they are trying to do is figure out how do we
25 prevent foreign sovereigns from influencing our internal

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1 elections? Shouldn't they have to know how? To the extent
2 that's happening now, don't they have to know how it is
3 happening?

4 MR. STRAWBRIDGE: Well, there are obviously a variety
5 of ways in which they may be able to obtain that information
6 through other sources the committee has available to it. The
7 question is whether --

8 THE COURT: They can. They can also get that
9 information by virtue of these subpoenas, no?

10 MR. STRAWBRIDGE: Well, so we disagree that they can
11 do that in this case. They certainly cannot do so -- and I
12 guess this would be the second point. To the extent that they
13 do have some authority to inquire into those types of matters,
14 the face of the subpoena, again, belies the information they
15 are actually seeking is pertinent to that legitimate purpose.
16 The subpoenas are not limited to foreign transactions. The
17 subpoenas are not limited to interactions with known potential
18 enemies or rogue states. The subpoenas literally ask for all
19 domestic transactions. They ask for records of all account
20 transactions. They are so overly broad that, looking at the
21 face of the subpoenas alone, you can see it is not pertinent to
22 the asserted purpose that the Intelligence Committee is relying
23 on.

24 THE COURT: But you would agree, would you not, that
25 to the extent I determine that it is a facially legitimate

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1 legislative function, at that point I can't go and look at the
2 subpoena and read it line by line and determine, okay, you can
3 get this category of documents and not that category of
4 documents?

5 MR. STRAWBRIDGE: No. Actually I disagree with that
6 for a couple of different reasons.

7 First of all, when you are determining whether or not
8 it is a facially legitimate legislative purpose, the language
9 that is used specifically is that the investigative act has to
10 have a facially legitimate legislative purpose. In this case
11 the investigative act is the subpoena. So we can certainly
12 look at the text of the subpoena and make an assessment as to
13 whether or not we think it is confined to the legitimate
14 purpose or if it stretches into an illegitimate purpose.

15 There are examples in the cases -- *Bergman* is one of
16 them, *Tobin* is another -- where courts have taken it upon
17 themselves to narrow subpoenas and narrow categories of
18 information that Congress can obtain. I think that your Honor
19 is authorized to do that. I think you are also authorized to
20 basically say the subpoenas are invalid; and if the committees
21 want to reissue newly valid subpoenas, they can do so, and we
22 can --

23 THE COURT: Well, let me ask you, have you had that
24 conversation with the committees?

25 MR. STRAWBRIDGE: We did raise with the committees

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1 whether they had any interest in narrowing the subpoenas and if
2 it was something that they were willing to discuss. We did not
3 receive a response.

4 I think if you look at the *Bean* case, Fusion GPS, both
5 district courts that handled that at one point had directed the
6 parties to sit down and negotiate. The *AT&T* case, from the
7 D.C. Circuit, is another where the court urged the parties to
8 sit down and try to narrow their differences at least, if not
9 eliminate them. Obviously if the court ordered us to do that,
10 we would be happy to do so.

11 THE COURT: Okay.

12 MR. STRAWBRIDGE: One point on the argument on a
13 preliminary injunction proceeding, under the *Citibank* standard,
14 which I know your Honor is familiar with, we merely need to
15 raise serious questions on the merits because I think our
16 irreparable harm is well established in the case law and
17 indisputable in this case.

18 THE COURT: Is that standard applicable on the facts
19 of this case?

20 MR. STRAWBRIDGE: Yes. I don't see why it would not
21 be.

22 THE COURT: Isn't there case law suggesting that where
23 it is the function of a government agency or a government
24 regulation that's being tested or challenged, that the party
25 has to make a finding of likelihood of success and cannot

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1 resort to the less stringent standard?

2 MR. STRAWBRIDGE: No. I don't think that that
3 exception applies in this case in part because this is not an
4 administrative agency or a law enforcement agency. This is a
5 congressional subpoena.

6 I will note that the *Eastland* case from the D.C.
7 Circuit, which the procedural posture of that case was not
8 disagreed with by the Supreme Court, the *Eastland* case
9 basically supports the view that in this case, when you have
10 these types of serious questions and you run the obvious risk
11 of disclosure, which would not only basically resolve the case
12 but would moot the ability to obtain further review, a
13 preliminary injunction can be imposed on this posture, because
14 we have met that. Even if the regular standard applied, we
15 think it would satisfy it on a preliminary injunction standard
16 at this point, not only with respect to our arguments regarding
17 legitimate legislative purpose, but also with the RFPA.

18 And I would like to talk about the RFPA for just a few
19 minutes if I can.

20 THE COURT: Sure.

21 MR. STRAWBRIDGE: The Right to Financial Privacy Act
22 plainly applies to the individuals who are named in some of the
23 subpoenas. The House's argument, obviously, is that the
24 committees of the House of Representatives are not government
25 authorities as defined in the act. And that argument is not

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1 well taken. It is inconsistent with both the purpose and the
2 text of the statute. Government authority, as you know, is
3 defined as "any department or agency of the United States."
4 The fact that it is the department and the agency means the
5 word "department" must be doing some work there that agency is
6 not. "Agency" is typically interpreted in federal statutes to
7 encompass the entire executive branch, so "department" must
8 mean something more than that.

9 Moreover, there are several references to Congress or
10 Congress-controlled investigators in the text of the RFPA
11 which, if the RFPA was not intended to cover Congress, there
12 would be no reason to make the limited exceptions or allowances
13 for certain congressional investigations outside the RFPA
14 requirements.

15 THE COURT: But hasn't the Supreme Court already
16 defined "Congress" outside of the terms "agency or department
17 of the United States."

18 MR. STRAWBRIDGE: Interestingly not. That is the
19 *Bramblett* -- I'm sorry, that is the --

20 THE COURT: *Hutcheson*?

21 MR. STRAWBRIDGE: *Hubbard* or *Hutcheson*?

22 MR. LETTER: *Hubbard*.

23 THE COURT: *Hubbard*.

24 MR. STRAWBRIDGE: So *Hubbard*, in 1995, overruled
25 *Bramblett*, which was the case from around 1950 or so. That

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1 case interpreted, for purposes of 1001, that false statements
2 made to Congress or false statements made to an agency or
3 department of the United States did not include Congress.
4 Setting aside the fact that that is a criminal statute, that it
5 has different interpretive principles that apply to
6 interpreting that, that does absolutely no help for the
7 committee because the act, the Right to Financial Privacy Act,
8 was enacted in 1978. In 1978, the governing law for several
9 decades was *Bramblett*. *Bramblett* had plainly applied that
10 exact same language to cover Congress. And there are Supreme
11 Court cases I would refer you to, *Cannon v. University of*
12 *Chicago* and *Fitzgerald v. Barnstable School Committee*, that say
13 when we interpret a statute and we are thinking what is the
14 definition that Congress would have presumed based on legal
15 interpretations, we use the legal interpretations that were in
16 place at the time the statute was passed. Obviously a 1995
17 decision can't affect what Congress intended in 1978. Nor does
18 it explain why the GAO has a particular exemption and why there
19 is a reference to congressional committees receiving documents
20 as outside the RFPA's particular procedures if Congress has
21 never intended to cover this.

22 I will also note that after that decision came down in
23 1995 in *Hubbard*, Congress very quickly amended 1001 to revert
24 to the old understanding that of course was in place in 1978
25 and added Congress back into the scope of the false statement

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1 statute.

2 We raise serious questions on both the RFPA claim as
3 well as the legitimate legislative purpose challenge. Either
4 one of them are sufficient to meet the requirements for
5 preliminary injunctive relief, and we would certainly urge the
6 court to give us a preliminary injunction, then we can proceed
7 with relative speed to a final hearing on the merits.

8 THE COURT: What about the balance of equities?

9 MR. STRAWBRIDGE: The balance of equities in this
10 case, I think, favor the plaintiffs here for a couple of
11 reasons.

12 We are willing to expedite this case. We have
13 expedited this case all along. I appreciate that counsel on
14 the other side has worked with us. We would not need a
15 particularly long period of time to proceed to a final
16 judgment. 30, 60, 90 days I think would be sufficient to
17 develop the record that we would need for full briefing. There
18 would be no harm to that modest extension of time to submit
19 these documents. The documents are being preserved. They
20 aren't going anywhere. There is adequate time remaining in the
21 remaining Congress. This could be resolved by the district
22 court no later than the fall. These are important issues.
23 They deserve a full and fair hearing.

24 THE COURT: So you object to the consolidation of
25 the --

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1 MR. STRAWBRIDGE: We do object to consolidation. We
2 do have some additional record that we would like to develop in
3 this case. We think we should have the opportunity to do so.
4 The courts are very clear that consolidation requires some type
5 of fair notice to parties and the opportunity to prepare for
6 trial.

7 THE COURT: I believe Judge Mehta gave you an
8 opportunity to supplement the record in the case before him in
9 connection with his decision to consolidate. Did you in fact
10 add to the record there?

11 MR. STRAWBRIDGE: Yes, we did. We submitted a couple
12 of documents. We were given three days to add to the record in
13 that case. We took some steps and we did supplement the
14 documents in that case with some of the committee
15 correspondence and other related matters.

16 In this case, of course, it is two different
17 committees. We would like the opportunity to explore what
18 discovery we would like voluntarily to be able to obtain from
19 those committees. Obviously we have not heard from the House
20 in terms of responsive pleadings, so we would very much like to
21 know what facts are or may not be disputed for purposes of
22 final judgment.

23 There is also some interesting information that could
24 be developed perhaps about the RFP claim, both factually and
25 legally, that would benefit from further briefing and further

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1 argumentation.

2 So for all of those reasons, I suggest that we should
3 proceed to an actual hearing on the merits.

4 THE COURT: What would discovery look like in this
5 case? Are there any facts that need to be developed?

6 MR. STRAWBRIDGE: Yeah, as I just said, we do think --
7 well, here is an example of some facts we would like to
8 develop. There has been additional time since we filed our
9 papers in which there may be further legislative statements or
10 public legislative statements from members or from the
11 committees that we would like the opportunity to explore and to
12 put into the record.

13 We think that there is some interesting both factual
14 and legal development that could be done on the RFPA claim.
15 The RFPA applied to trusts, trusts would be considered persons
16 within the reach of the House of Representatives. We would
17 obviously benefit from some additional time to develop facts
18 about who are the targets of the subpoenas and entities that
19 are targets of the subpoenas as well as what the original
20 legislative expectation and understanding of the RFPA's scope
21 was.

22 We would also like the opportunity, as I said, to look
23 to --

24 THE COURT: Why isn't that a purely legal question?
25 Why can't we just look at the legislative history.

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1 MR. STRAWBRIDGE: Because in some case there might be
2 a question about who are the representatives. Not to get too
3 technical, but if you look at the Capital One subpoena, for
4 example, after listing the entities that the committee is
5 seeking discovery from, they include language that they also
6 want basically the accounts and the documents of any principal,
7 including directors, shareholders, officers, other
8 representatives of the foregoing. There at least is some
9 factual record that could be developed as to who that would
10 encompass and how broad the subpoenas actually are as well as
11 the RFPA's ability.

12 If I can just make one more note before I sit down?

13 THE COURT: Yes.

14 MR. STRAWBRIDGE: Although I am obviously happy to
15 address any other questions your Honor has.

16 THE COURT: Go ahead.

17 MR. STRAWBRIDGE: In the 1950s, as you are aware, a
18 lot of the cases that are at issue here revolved around the
19 activities of the House Un-American Activities Committee, an
20 investigation into the extent to which people were involved
21 with disfavored political organizations at the time. And
22 notwithstanding the fact that those obviously raised difficult
23 and important questions and there was a strong desire to defer
24 to congressional prerogatives, the Supreme Court reiterated
25 that Congress lacks the ability to just generally inquire into

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1 the private affairs of citizens and it emphasized that a
2 measure of added care on the part of the House or Senate in
3 authorizing the use of compulsory process by their committees
4 would suffice and be a small price to pay to uphold the
5 principles of limited constitutional government. That
6 statement of principle is no less true today than it was 60
7 years ago, and I encourage the court to heed it and to grant us
8 the preliminary injunction.

9 THE COURT: Thank you.

10 Mr. Letter.

11 Folks want to put the signs down, please?

12 MR. LETTER: Thank you, your Honor.

13 My friend, Mr. Strawbridge, has made an eloquent
14 presentation. Several problems with it, unfortunately, for the
15 position he is advocating is contrary to numerous decades of
16 numerous Supreme Court opinions. Mr. Strawbridge is asking you
17 basically to overrule a whole batch of Supreme Court opinions,
18 which I will be happy to discuss because of the breadth of his
19 argument today.

20 Before I get more into it, though, I want to just
21 raise two things. One is probably the best brief of the House
22 of Representatives today is the opinion issued the other day by
23 Judge Mehta in district court in DC. Judge Mehta recognized
24 that these arguments being made today are identical to what was
25 made before him except for the right to financial privacy,

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1 which I will get to, and he rejected all of them. In fact, he
2 rejected them so soundly that he then also denied a stay
3 pending appeal because he said there is absolutely no merit to
4 any of these arguments because they are directly contrary to
5 Supreme Court precedent.

6 Which leads me to my second point: *McGrain*. *McGrain*
7 *v. Daugherty*, Teapot Dome, I think, as Judge Mehta recognized,
8 if you read that opinion, you could probably just switch in the
9 name "Trump" and it would be almost identical of the claims
10 that were made, the kinds of arguments that Mr. Strawbridge is
11 making today. They were all rejected unanimously by the
12 Supreme Court. Not a single justice bought those arguments.

13 THE COURT: Mr. Letter, let me ask you this. I
14 appreciate the broad authority that's given to Congress to
15 investigate in connection with its legislative charter, but is
16 it appropriate for Congress, even acting within its appropriate
17 realm, to identify a particular individual, much less the
18 president of the United States, and label him and his
19 organization and his family as a case study in an effort to
20 carry out its job?

21 MR. LETTER: Several responses, your Honor.

22 First of all, *McGrain*, *McGrain* focused specifically on
23 I think it was Harry Dougherty, the disgraced Attorney General,
24 part of the Teapot Dome. The opinion talks about how the court
25 below had quashed that subpoena because it said you are

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1 focusing on an individual. You are engaging in law enforcement
2 activities. As I say, it is almost identical words to
3 Mr. Strawbridge. And the Supreme Court again unanimously said,
4 no, that doesn't work.

5 As far as focusing on an individual and a case study,
6 a couple of points, your Honor. The Financial Services
7 Committee here issued a whole batch of subpoenas. We are only
8 talking about two here. There were quite a few others and
9 quite a few people, quite a few entities having nothing to do
10 with Mr. Trump or his family. Even the subpoena, one of the
11 subpoenas here, the one to Deutsche Bank, lists a whole batch
12 of other individuals and other organizations. I think we have
13 redacted them from the public record. They have nothing to do
14 with Mr. Trump.

15 So Mr. Trump is here arguing: This is focusing on me.
16 It is not. It is focusing on him among any number of other
17 people. And I will address why that is so, why that is
18 important, because this is not -- and I cannot emphasize this
19 enough, this is being totally misrepresented -- this is not an
20 investigation just about Mr. Trump and his family.

21 THE COURT: But it is easy to argue with the breadth
22 of the subpoenas that have been issued, right? I mean you are
23 going back ten years. And then with respect to certain
24 categories of documents, you are going back even further than
25 that. You are reaching out as far as Mr. Trump's

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1 grandchildren. If this were an ordinary civil case, I would
2 send you guys into a room and tell you don't come out until you
3 come back with a reasonable subpoena.

4 MR. LETTER: Right. Absolutely, your Honor. Why does
5 this go back so far? Because remember, and I refer you to
6 page -- I think it is about 3 through 6 of our brief here,
7 where we talk about the numerous things that we are
8 investigating, and we are talking about money laundering, we
9 are talking about using lots of foreign entities and
10 particularly Russian money flowing from oligarchs into the
11 United States over a sustained period of time.

12 So clearly we have to go back in time. Mr. Trump has
13 had a relationship with Deutsche Bank for many, many years and,
14 as you know, one of the reasons, you could say, we are looking
15 at Deutsche Bank, we are focusing on Deutsche Bank paid
16 immensely heavy fines because of its involvement in these kinds
17 of activities.

18 And that raises, by the way, another point. Remember
19 that a significant part of these subpoenas are directed at
20 Deutsche Bank. We are asking Deutsche Bank for how did you
21 analyze this? What was your policy on that? What kinds of
22 memos? Why were you lending money to Mr. Trump when numerous
23 other banks wouldn't touch him? And why was the money being
24 used in particular ways, especially given the fine that
25 Deutsche Bank paid for some of the activities in which it was

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1 involved?

2 So you have to go back quite a few years. Any kind of
3 serious investigation involving financial, you know,
4 complicated and very large amounts of money, financial affairs
5 are going to go back years and years, and so that is exactly
6 why we are asking for it.

7 THE COURT: The concern is primarily, as I understand
8 you, foreign entanglement. Why are you asking for all of the
9 domestic documents?

10 MR. LETTER: Your Honor, that is only one part of it.
11 And in addition, remember that if there is money flowing in
12 from Russian oligarchs and money being laundered and being a
13 source for Russian oligarchs to move money out of Russia to
14 here, you have to look at where is it going here? What kind of
15 projects? So there was a project in Chicago that ran into
16 major financial trouble, okay? Why did -- did Deutsche Bank
17 come in and rescue, and why?

18 So it is all tied together, especially if what you are
19 investigating is, is Russian money, Russian and other money,
20 coming into the United States as a good way of laundering it,
21 and then how is it being used in the United States? What kind
22 of impact does it have in the United States?

23 THE COURT: Why isn't this a criminal investigation of
24 the Trump organization?

25 MR. LETTER: I'm glad you asked that, your Honor.

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1 Very clear answer that I gave -- same thing I gave to
2 Judge Mehta. The United States House of Representatives cannot
3 prosecute anybody. We cannot send anybody to jail. We
4 absolutely have no authority to investigate a criminal matter
5 and send somebody to jail.

6 THE COURT: But you can get a truckload of documents
7 and then hand them over to a prosecutor who would ordinarily
8 have to comply with the RFPA.

9 MR. LETTER: Well, we would expect that, your Honor.
10 If the House of Representatives does a major investigation and
11 discovers criminal activity, of course we would turn that over
12 to law enforcement people. But again, if this is the --

13 THE COURT: Could you do that in conjunction with a
14 prosecutor?

15 MR. LETTER: I don't know the answer to that. That
16 would probably raise all sorts of very serious issues. It is
17 not at all what's happening here. You have would have a big
18 concern there, your Honor, of the bill of attainder since the
19 Congress cannot focus its legislative activity on accusing
20 somebody in particular of a crime.

21 But, again, that's not what's happening here. There
22 has been no allegation whatsoever that the House of
23 Representatives is in collusion with the Trump-led Justice
24 Department. That's not what's happening here.

25 And in addition, again, your Honor, remember I keep

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1 coming back to *McGrain*, *McGrain* was an investigation into
2 criminal activity by, among others, Attorney General Dougherty.
3 Watergate, Watergate was obviously investigating criminal
4 activity. Whitewater, there were allegations of criminal
5 activity. It is clear that the House can investigate matters
6 that may indeed be criminal, but it is not a law enforcement
7 investigation.

8 THE COURT: So what is the outer line? If these
9 proposals that you are making or if the justification that you
10 are providing for why this is a facially legitimate legislative
11 purpose, clearly the plaintiffs would make at least a
12 reasonable argument that these are also arguably criminal
13 matters that are being investigated. Where do I draw the line?
14 How far can I go in giving Congress the leeway that obviously I
15 am required to give?

16 MR. LETTER: Your Honor, with all due respect, you
17 answered your own question earlier. The Supreme Court has made
18 clear, again, with all due respect, you do not have the power
19 to do that. That is not your task.

20 The Supreme Court -- and, again, I'm not making this
21 up -- the Supreme Court said this, in the *Watkins* case, "Power
22 to investigate is broad." *Eastland*, "It is as penetrating and
23 far-reaching as the potential power to enact and appropriate
24 under the Constitution." *Barenblatt*, "Congress might legislate
25 or we can look into things which Congress might legislate or

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1 decide, upon due investigation, not to legislate." *McGrain*
2 says, "Legislation could be had."

3 THE COURT: So then what am I doing here?

4 MR. LETTER: I'm sorry?

5 THE COURT: So then what am I doing here?

6 MR. LETTER: Your Honor, we did not bring this case.
7 Again, I come back to Judge Mehta. Judge Mehta said this is so
8 clearly wrong and, as Judge Mehta pointed out, no judge has
9 done what Mr. Strawbridge is asking you to do in an extremely
10 long time.

11 THE COURT: But he has pointed to cases where judges
12 have at the very least directed the parties to narrow the scope
13 of subpoenas.

14 MR. LETTER: I'm not aware that in any of these cases
15 that happened, your Honor. And these are totally -- we are
16 doing a very major, complex investigation across a whole
17 industry, not just Mr. Trump, a whole industry. We are looking
18 into major questions about serious, serious possible amendments
19 to --

20 THE COURT: You mentioned that there were other
21 parties besides Mr. Trump and his organization?

22 MR. LETTER: Yes.

23 THE COURT: What can you tell me about that, if
24 anything?

25 MR. LETTER: Your Honor, we have redacted from -- not

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1 publicly disclosed, it is a list of I think about nine or ten
2 others; and then, as I say, we have completely separate
3 subpoenas that were issued simultaneously to this one, I don't
4 know, about ten, I think, by memory. They all come through me,
5 and I think it was about ten or so, and they have nothing to do
6 with Mr. Trump.

7 So we are doing a very big, very serious investigation
8 on behalf of the American people to see whether we need new
9 legislation, do we need to tighten things or, remember I said,
10 or not to legislate. And, again, I wasn't making those words
11 up. This is the Supreme Court of the United States, *Eastland*,
12 "When determining the legitimacy of a congressional act, courts
13 do not look to the motives alleged to have prompted it."
14 *McSurely*, a D.C. Circuit case, "There is no requirement that
15 every piece of information gathered in such an investigation be
16 justified before the judiciary."

17 There is a key separation of powers issue here, and
18 Mr. Strawbridge knows this very well. There is a reason
19 Judge Mehta ruled as he did.

20 THE COURT: So can I go only as far as making a
21 determination that there is a facially legitimate legislative
22 purpose here and that's it?

23 MR. LETTER: Yes, your Honor. The Supreme Court has
24 given that instruction. And, again, that makes perfect sense
25 under our separated powers principle in our Constitution.

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1 Again, there is a reason why the Supreme Court said that. It
2 is not me as the current general counsel of the House. This
3 has been going on for a very long time.

4 As you know, Judge Mehta quoted at the beginning, the
5 very beginning of his opinion, President Buchanan was furious
6 that Congress was focusing on him and accusing him of all sorts
7 of bad and horrible things, and that is part of the role of
8 Congress. That's why we have a Congress. We are a check on
9 the president. And that's why, again, this case, a major theme
10 of ours is this case is here only because of a massive and
11 fundamental misunderstanding by Mr. Trump about the legislative
12 branch. He clearly views us as some sort of nuisance, and we
13 can't focus on him, we can't investigate him. This is all
14 absolutely wrong and it shows a very serious misunderstanding
15 of the way the law has developed since the very beginning of
16 our country.

17 I just want to look before I switch to Right to
18 Financial Privacy. If your Honor would give me one more
19 moment.

20 The one other thing I want to mention is Judge Mehta
21 did talk about the informative power of Congress supported by
22 the *Rumely* decision from the Supreme Court, and so I urge your
23 Honor to look at that because Judge Mehta obviously felt that
24 that was a key point. In fact, during the hearing there he
25 asked me about that on a couple of occasions, and you can see

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1 that in his opinion.

2 I know one of the things I wanted to mention.
3 Mr. Strawbridge talks about family, in-laws, grandchildren,
4 etc. Come on, your Honor. We know lots of people do things.
5 They hide assets. They create dummy corporations. They put
6 their relatives in charge. They put things in the names of
7 their grandchildren. This is what people who are committing
8 financial fraud do.

9 I once handled a case, your Honor, when I was at the
10 Justice Department for many years, I handled a case involving a
11 drug lord. He had put entire companies, a major drug chain in
12 South America, in the names of two of his teenaged daughters.

13 This is not some unusual and strange investigation
14 that we are doing here. And indeed, indeed, your Honor, before
15 Mr. Strawbridge can really talk about, oh, my gosh, in-laws,
16 can you imagine investigating in-laws, Jared Kushner is the
17 son-in-law of president Trump. And his businesses and him as
18 an individual are also part of the subpoena.

19 THE COURT: But he is also part of the administration
20 in some advisory capacity. But there are other in-laws that
21 Mr. Trump has that are not nearly, presumably, as involved in
22 his administration.

23 MR. LETTER: Because Mr. Kushner has, like Mr. Trump,
24 a family business. Remember, we are not talking about Ford
25 Motor Company. We are talking about a family business. And,

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1 indeed, one of the reasons why this is the way it is is
2 because, as everybody knows, Mr. Trump has refused to do what
3 so many others in his position do, which is disclose. If he
4 voluntarily disclosed, we probably wouldn't have to do nearly
5 as much in the way of subpoenaing.

6 THE COURT: But he is not required to disclose.

7 MR. LETTER: He is absolutely not, your Honor. He is
8 not. Except by statute he is required, for instance, to make
9 financial disclosure under the Ethics in Government Act.

10 THE COURT: So long as we are talking about the
11 documents, Mr. Letter, let me ask you this, because it also
12 touches upon the irreparable harm issue. Let's say you get
13 these documents from Deutsche Bank and Capital One. What are
14 you going to do with them?

15 MR. LETTER: Your Honor, they will be analyzed in
16 depth by the staffs of the two committees. They will be poured
17 over and looked through, as well as, remember I said, we are
18 gathering material from any number of other banks about other
19 individuals and entities --

20 THE COURT: At that point are they public?

21 MR. LETTER: There are two different rules here.

22 One is the Intelligence Committee, and the
23 Intelligence Committee, their normal mode of operation is, no,
24 they would not be public. The documents like this would be
25 received in what's called executive session. The committee

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1 could vote to make them public if it wished.

2 The Financial Services Committee, the chairman can
3 decide to make them public or not, as she decides, as she
4 determines. We don't just willy-nilly disclose things, no. We
5 would look at things, we would be willing to talk to
6 individuals involved to see whether there is certain material
7 that should or shouldn't be redacted, etc.

8 But ultimately it is up to the Congress of the United
9 States to decide what the people of the United States should
10 hear. And, again, Judge Mehta went through this at some
11 length.

12 THE COURT: I think I may have read this somewhere in
13 the public record, but was there some discussion on the part of
14 the parties concerning maintaining the confidentiality of the
15 documents even if they are produced by the banks, whether the
16 Congress would commit to maintaining their confidentiality?

17 MR. LETTER: I don't -- if you will hold on one
18 moment, your Honor.

19 (Counsel confer)

20 MR. LETTER: No, your Honor, we have not had any
21 discussions like that.

22 THE COURT: Is that something that you are willing to
23 consider?

24 MR. LETTER: We, of course, will listen to them. And,
25 again, I gave the same answer to Judge Mehta where there it was

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1 the Oversight Committee. We will listen to them. We are
2 willing to talk with them. We are willing to hear a
3 presentation from them.

4 But ultimately -- and, again, this is a matter -- it
5 is a separation of powers issue. This is for the Congress of
6 the United States. If the Congress determines that it should
7 serve, as well as a legislative function, an informative
8 function, that's why they were elected. That's why they are
9 there. This is not like a court case.

10 THE COURT: Now, the Right to Financial Privacy Act
11 obviously involves a strong sentiment in this country that
12 individuals, private individuals, financial lives ought be kept
13 private to the extent possible except if you are a judge or
14 government lawyer.

15 MR. LETTER: Exactly. You and I, we don't have
16 privacy, your Honor.

17 THE COURT: We do not, but we agree to that.

18 MR. LETTER: Yes.

19 THE COURT: So therefore, if Mr. Trump and the
20 organization and the other individual plaintiffs have that
21 right and these documents are turned over to Congress, who is
22 not on record as being willing to commit to their
23 confidentiality, why isn't that irreparable harm? Why doesn't
24 that irreparably damage the Trumps and the Trump organization?

25 MR. LETTER: Your Honor, it could be -- if your Honor

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1 decides that we are right on the law, based on a massive amount
2 of Supreme Court precedent, then you would need to decide
3 should you nevertheless issue a preliminary injunction or
4 should you, like Judge Mehta, consider should you issue a stay
5 pending appeal because of the harm to them, and that's a factor
6 you could take into account. We say Judge Mehta got that
7 right. If you don't have really any good argument on the
8 merits, then you shouldn't be granting an junction. And, as we
9 know, the Supreme Court said that in *Winter*.

10 And you can do it either under, as Judge Mehta did,
11 converting it under Rule 65, but you don't even have to do
12 that. The Supreme Court -- we cited you several cases, the one
13 that comes to most readily to mind, because I worked on it, was
14 *Munaf*. The Supreme Court said -- it was up before the court on
15 a preliminary injunction. The Supreme Court said there is no
16 case on the merits here. There clearly would have been
17 irreparable injury if Mr. Munaf said, Do not release me to
18 Iraqi officials. Bad things will happen to me. Nobody denied
19 that maybe there would be irreparable injury, but the Supreme
20 Court said you don't have a case on the merits. Again, there
21 is no case here on the merits.

22 THE COURT: So do I understand you to be conceding
23 that aspect of the analysis?

24 MR. LETTER: No, your Honor. Obviously I concede that
25 if the documents are out, it is then irreparable. But if we

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1 are talking about how that ties in with things like the public
2 interest, I will just go to that and then come back to the
3 right to financial privacy, with your Honor's permission.

4 THE COURT: Very well.

5 MR. LETTER: There is massive public interest in
6 disclosure here. Mr. Strawbridge said, well, you know, I
7 probably could do this in 60 days, 80, 90 days. Remember that
8 Congress has a limited time.

9 THE COURT: How long does this Congress have?

10 MR. LETTER: The Congress lasts two years, so. . .

11 THE COURT: So 90 days is comfortably within that
12 period of time.

13 MR. LETTER: I assume. I may be wrong about this, and
14 Mr. Strawbridge is free to get up and tell me I am wrong. I
15 suspect that if you rule in the House's favor here, he will be
16 appealing, just as Judge Mehta's ruling was appealed I think it
17 was the next morning. So we are talking about then there will
18 be an appeal. I'm guessing also that once it is upheld by the
19 Court of Appeals, he will file a cert. petition. As you know,
20 Mr. Trump said, Thank goodness I have got the Supreme Court. I
21 will go to them any time I can.

22 So the judicial proceedings here, for instance, the
23 Miers case, the Holder case, these things dragged on for a very
24 long time, and we desperately do not want that to happen here.
25 That's not how this should happen. And in fact your Honor the

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1 Supreme Court in *Eastland* chided the lower courts and said, you
2 know, this is what happens when you interfere with House
3 investigations. I'm sorry. I think it was a Senate
4 investigation there. What happens is these things then drag on
5 for a long time, and that's not supposed to be the way that
6 this works.

7 Right to financial privacy. First, I was very
8 interested to hear, well, Mr. Strawbridge noted that *Hubbard*
9 had reversed *Barenblatt*, but he said but the statute here was
10 passed while *Barenblatt* was still the law. There is a serious
11 problem with that, your Honor. *Hubbard* involved 1001, as I
12 recall. I think that statute has been around for a very, very
13 long time. The Supreme Court said, You know what? We were
14 wrong before. This phrase "department or agency of the United
15 States" does not apply to Congress, and they applied that rule
16 in that case, even though when 1001 was passed, it was way
17 before that time. So that argument doesn't get any -- well,
18 again, it asks you to ignore Supreme Court precedent.

19 So a couple of things:

20 One, *Hubbard* says, directly on point, these words
21 don't cover Congress.

22 Two, this is a key point, when the Right to Financial
23 Privacy Act was being considered, the Justice Department
24 suggested an express provision that it would cover Congress.
25 Big surprise, congress took that out and it was not part of the

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1 legislation. So it is not there, even though it was expressly
2 suggested.

3 Another thing is, just three years before that statute
4 was passed, the Supreme Court had, in *Eastland*, upheld the
5 ability of the House to get these very kind of financial
6 records. So what we are being asked to believe here is, *sub*
7 *silentio*, with no indication that it meant to do this, Congress
8 meant three years later, after *Eastland*, to give up this very
9 power the Supreme Court had just said, well, of course you
10 have, with never saying so, Congress meant to do that. The
11 likelihood of that is basically nil. Somebody would have said
12 something to say, you know what, we are going to change the law
13 that the Supreme Court just retold us again for the umpteenth
14 time is our power.

15 Another interesting thing is there can be punitive
16 damages under that statute. So we are being asked to believe
17 that Congress wanted to provide punitive damages against
18 itself, again, with no indication whatsoever that that is what
19 it was doing.

20 In addition, as Mr. Trump argues in his brief, he says
21 look at Section 3403 of the statute, which says records can be
22 turned over only for a legitimate law enforcement inquiry.
23 Well, as your Honor and I were just talking, the House doesn't
24 do law enforcement inquiries. That's not what we do. So that
25 means, again, Congress would have been passing this statute

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1 basically cutting off its own ability to do this kind of
2 investigation without a single word to that effect.

3 In addition, there are other statutes, the Dual
4 Compensation Act, for example, 5 U.S.C. 553(1), where Congress
5 does expressly make the statute apply to itself.

6 So this, too, this is not a good argument. We don't
7 have a whole lot of case law in it to point to, but it is not a
8 reason to grant a preliminary injunction. Preliminary
9 injunction could be to freeze the status quo, to say, whoa, we
10 have to do some -- I have got a lot of factual work to do.
11 This is not a factual inquiry. This is does the statute apply
12 or not?

13 With regard to the facts, I am very puzzled.
14 Mr. Strawbridge said he is going to engage in discovery, and
15 you pushed back at one point saying, Why is this not just a
16 legal issue? Mr. Strawbridge cannot engage in any discovery
17 against the House of Representatives. The *Eastland* decision
18 makes that absolutely clear, speech or debate clause immunity.
19 There is no discovery here. He can't take the deposition of
20 Chairman Schiff or Chairwoman Waters. There is no discovery
21 here.

22 He can do his own investigation of -- I think he was
23 talking about trying to see what the history of the Right to
24 Financial Privacy statute is, etc. He can look through more
25 congressional documents, etc., but he can't do any discovery.

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1 So that's why we are here. This is a pure legal
2 question. I don't understand why there would be any more
3 briefing. We have had plenty of briefing and we are having a
4 lengthy hearing. Mr. Strawbridge can make any points he wants.
5 There is no need for anything further here.

6 (Continued on next page)

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1 THE COURT: Why don't you speak, if you would, to the
2 balance of the equities.

3 MR. LETTER: The balance of the equities, as I said, I
4 realize, yes, they've got the irreparable injury. If the
5 documents are out, they're out. Although, remember, we had
6 pointed out in the Exxon case, just because documents are
7 turned over to Congress, that itself is not irreparable injury.
8 The question is if Congress was going to disclose them. So
9 just turning it over to Congress is not irreparable injury.

10 The balance of the equities primarily are that we're
11 very limited in time, and so we need to move forward on what is
12 an extremely important investigation that the American people,
13 at some point, need to know about. Maybe we'll have some major
14 legislation so that, you know, Russian oligarchs are not using
15 the United States' banking system as a way to launder money and
16 all of the impacts that that has.

17 Another thing, and this one is directed to say, and,
18 Mr. Trump, we really do want to know -- and this is a key part
19 of what the Intelligence Committee is set up to do -- we want
20 to find out is our government, at its highest levels, being
21 subject to influence of foreign governments that the American
22 people don't know about. Either because of financial ties, is
23 the President or people close to him, like Mr. Kushner and
24 others, are they beholden to foreign financial interests
25 because of their major personal financial dealings that they

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1 will not disclose and have, thus far, resisted disclosing to
2 the American people?

3 So if that is true, if they are subject to this kind
4 of influence and control by foreign entities and foreign
5 leaders, the public interest is that we know that immediately,
6 as fast as possible. We're way overdue in knowing that. So
7 that's the balance of the equities, your Honor, and again I'm
8 back to *McGrain*, Judge Mehta, *Munaf*. There is simply no
9 argument here. The Supreme Court has made that absolutely
10 clear.

11 THE COURT: Thank you.

12 MR. LETTER: Thank you, your Honor.

13 THE COURT: Before we get back to Mr. Strawbridge, did
14 the banks want to say anything about that? You came all the
15 way down here.

16 Okay. Mr. Strawbridge.

17 MR. STRAWBRIDGE: My friend, Mr. Letter, said that he
18 was not aware of any example of a schema being narrowed. We
19 cite in our papers a number of examples where just that
20 happened either by ordinance, order or basically instructing
21 the parties to go negotiate. It happened in *Bergman* in 1975.
22 It happened in *Tobin* in 1962. The DC circuit remanded the
23 case and ordered the parties to negotiate over a congressional
24 subpoena in *AT&T* in 1976. And last year, in the *Fusion GPS*
25 case, both Judge Chutkan and Judge Leon required the parties to

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1 sit down and at least try to narrow, if not resolve, their
2 differences.

3 THE COURT: But I suppose if I did that here, it would
4 be cold comfort to you.

5 MR. STRAWBRIDGE: I'm sorry?

6 THE COURT: If I did that here, it would be cold
7 comfort to you.

8 MR. STRAWBRIDGE: Well, we remain open and reasonable
9 and willing to discuss. So as long as we're not being
10 required, or at least the banks are not being required to turn
11 over documents, we are always happy to engage in reasonable
12 discussions.

13 THE COURT: Okay.

14 MR. STRAWBRIDGE: So Mr. Letter talked a lot about
15 McGrain. I just want to direct the Court to McGrain on two
16 particular facts. Interesting fact about McGrain is there was
17 initially a document request, as well as congressional
18 testimony. The document request, in fact, sought private
19 banking records, including transactions over \$25,000 at the
20 time, which was in excess of \$300,000 in modern time.

21 The House withdrew the document subpoena. It was not
22 before the court in McGrain, and when the court issued its
23 decision in McGrain, it said something very important. It
24 noted the difference, in talking about how much it could credit
25 the asserted legislative purpose of the House, it specifically

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1 said that it was not as if an inadmissible or unlawful object
2 was affirmatively or definitely avowed by the committee. It
3 made a difference that the committee did not say it was going
4 to engage in an impermissible purpose, such as law enforcement
5 investigation.

6 Now, what we just heard from Mr. Letter up here was a
7 lot about Russian oligarchs, and financial fraud, and failure
8 to disclose, and the need to expose to the American people
9 certain information about the Trump organization and Mr. Trump.
10 That is not the House's legitimate legislative role. It is
11 exposure expressly for the sake of exposure, and it's
12 completely confirmatory of what -- we actually don't need to
13 take Mr. Letter's word for it.

14 The Congressional record page that they cited, this is
15 from Chairman Waters' Financial Services Committee, stood up
16 and gave a statement about the investigations that she was
17 doing. This is on page H2698 of the Congressional record, and
18 she specifically says: The movement of illicit funds through
19 the global financial system raises numerous questions regarding
20 the actors who are involved in these money laundering schemes
21 and where the money is going. This is precisely why the
22 Financial Services Committee is investigating the questionable
23 financing provided to President Trump and the Trump
24 organization that lead banks, like Deutsche Bank, to finance
25 this real estate properties.

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1 You can read this entire page of the Congressional
2 record. You won't find reference to any other individuals.
3 You won't find reference to any other organizations. They are
4 targeting one particular private party, one particular party's
5 financial transactions, and if they are believed, then someone
6 should suggest otherwise.

7 Judge Mehta's decision, respectfully, we disagree with
8 aspects of it, but it has very little bearing on the questions
9 here because it involved a different committee, which has
10 different jurisdiction and different assertive legislative
11 purposes. Ethics and disclosure, for example, is outside the
12 jurisdiction of either of the committees here.

13 THE COURT: I'm sorry, which? What's outside the
14 jurisdiction?

15 MR. STRAWBRIDGE: Ethics and disclosure principles,
16 which is what some of Mr. Letter referred to and which was the
17 basis for some of Judge Mehta's decision.

18 Obviously, the RFPA claim was not before Judge Mehta,
19 but the real concern with the larger view that Judge Mehta
20 took, and I think your Honor appropriately hit upon it, was the
21 lack of any limiting principle. If anyone can be a case study,
22 if anyone's private affairs can simply be inquired into under
23 the view that, well, we need to know something about the
24 banking law; we have a remedial statute that we might want to
25 undertake, then the ability to come to court and to enforce the

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1 separations of powers and to prevent Congress from exercising
2 the general ability to investigate anybody they want, their
3 private affairs -- this is not McGrain involving the Attorney
4 General; these are private individuals, that the dates of these
5 subpoenas almost exclusively apply to a time before anybody was
6 a candidate, let alone elected to office -- then we have really
7 lost the entire purpose of all these Supreme Court cases and
8 their repeated assertion that there are limitations upon
9 Congress' power.

10 Those limitations have been overstepped here. We
11 remain willing to follow whatever the Court does, but I think
12 we have easily satisfied the substantial question test for
13 preliminary injunction, and we ask the Court to enter one.

14 THE COURT: Thank you, Mr. Strawbridge.

15 What we're going to do is we're going to take -- I'm
16 sorry, Mr. Letter.

17 MR. LETTER: May I just address one point, your Honor?

18 THE COURT: Sure.

19 MR. LETTER: Thank you. Mr. Strawbridge talked about
20 narrowing the subpoenas, but I may have misunderstood. I
21 thought his argument was that because these are so broad, that
22 shows that they are invalid. I don't think I've ever heard
23 that his client would be willing to say, okay, you can have all
24 of the records, but instead of six years, let's limit it to
25 four. I'm fairly sure that's not what he's talking about.

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1 Again, I think his argument is because it's so broad, that
2 shows it's illegitimate.

3 THE COURT: He said, I think no less than twice, that
4 he was willing to sit down and have a reasonable discussion
5 about limiting the subpoenas.

6 MR. LETTER: Fine. If you are going to order that,
7 your Honor, I hope you'll order that that be done extremely
8 fast because I'm fairly sure it will be evident immediately
9 that it is not a serious endeavor. Thank you.

10 THE COURT: Thank you. So we're going to take ten
11 minutes, and then I'll come out and give you my decision.

12 (Recess)

13 THE COURT: Everyone, please be seated. Now, I'm
14 going to read this. It's approximately 25 pages, and if
15 history is any guide, it's going to take me about 40, 45
16 minutes to read or so. I won't chain you to your chairs, but
17 if any of you wish to leave before I finish reading, I would
18 just ask that you do so as unobtrusively as possible.

19 On April 15, 2019, two subcommittees of the United
20 States House of Representatives issued subpoenas to Deutsche
21 Bank and Capital One Financial Corporation. The subpoenas seek
22 financial and account information concerning President
23 Donald J. Trump, his children, members of their immediate
24 family, and several entities associated with his family.

25 Two weeks later, plaintiffs filed the above-captioned

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1 suit, claiming that the subpoenas violate the United States
2 Constitution and the Right to Financial Privacy Act, the
3 "RFPA". Plaintiffs also moved for a preliminary injunction
4 that would prohibit the Committees from enforcing the subpoenas
5 and prohibit the banks from complying with the subpoenas until
6 the resolution of this lawsuit. This bench ruling addresses
7 that motion.

8 The question presented in plaintiffs' motion is
9 straightforward: Does the Committees' subpoenas violate the
10 Constitution or the RFPA? After reviewing the parties' briefs
11 and hearing from them today, the Court is convinced that the
12 answer is no. Accordingly, I will not enjoin enforcement of
13 the subpoenas.

14 The Court begins by addressing two preliminary
15 matters: the applicable standard for a preliminary injunction,
16 and the Committees' request for consolidation.

17 The Court begins with the applicable standard of
18 review. "A plaintiff seeking a preliminary injunction must
19 establish that he is likely to succeed on the merits, that he
20 is likely to suffer irreparable harm in the absence of
21 preliminary relief, that the balance of equities tips in his
22 favor, and that an injunction is in the public interest."
23 *Winter v. National Resources Defense Council, Inc.*, 555
24 U.S. 7.

25 In this circuit, if a plaintiff does not establish a

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1 likelihood of success on the merits, a preliminary injunction,
2 nonetheless, may issue if the plaintiff shows that there exists
3 sufficiently serious questions going to the merits to make them
4 a fair ground for litigation and a balance of hardships tipping
5 decidedly toward the plaintiff. Citing *Citigroup Glob. Mkts.,*
6 *Inc. v. VCG Special Opportunities Master Fund Ltd.*, 598 F.3d
7 30. It is not enough that the question be substantial,
8 however.

9 Regardless of whether the plaintiff opts to show
10 likelihood of success on the merits or sufficiently serious
11 question going to the merits, the plaintiff always must
12 demonstrate that irreparable harm is likely, absent the
13 injunction. At all times, the Court remains mindful that
14 preliminary injunction is an extraordinary and drastic remedy,
15 and it is never awarded as of right. *Munaf v. Geren*, 553 U.S.
16 674.

17 Next, the Court denies committees' request for
18 consolidation. In their opposing papers, the committees asked
19 the Court to consolidate this hearing with a trial on the
20 merits, pursuant to Rule 65(a)(2) of the Federal Rules of Civil
21 Procedure. Plaintiffs opposed consolidation on the ground that
22 consolidation would violate their rights to due process.
23 Ultimately, the Court concludes that any decision to
24 consolidate is of little consequence here. The Committees are
25 not prejudiced by the denial of a consolidation, given that the

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1 Court will not enjoin them from enforcing their subpoenas.

2 Conversely, if the Court chooses to consolidate
3 the preliminary injunction hearing with a trial on the merits,
4 there is a slight risk that plaintiffs will be prejudiced,
5 notwithstanding that Plaintiffs have yet to adequately explain
6 what further discovery, briefing, witnesses, and time is needed
7 before they will be ready for a trial on the merits.

8 In any event, to ensure that plaintiffs are not
9 prejudiced, the Court will deny the committees' application for
10 consolidation. Should this matter ultimately proceed to the
11 merits, however, the Court appreciates the urgency with which
12 matters concerning two coordinate branches of government should
13 proceed, and the limited universe of facts that may be subject
14 to discovery.

15 Turning to the merits of plaintiffs' motion. The
16 Court finds that while plaintiffs have shown that they will
17 suffer irreparable harm, absent a preliminary injunction, they
18 are unlikely to succeed on the merits of their claims, that the
19 questions presented in their motion are not sufficiently
20 serious in light of Supreme Court precedent and the plain text
21 of the Right to Financial Privacy Act, the balance of hardships
22 and equities, in conjunction with consideration of the public
23 interest, do not weigh in their favor. Consequently, the Court
24 concludes that a preliminary injunction is inappropriate.

25 The Court begins with whether Plaintiffs have

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1 demonstrated a likelihood of irreparable harm absent an
2 injunction, because if there is not a likelihood of irreparable
3 harm, then the Court need not grapple with the constitutional
4 and statutory issues in this case.

5 Plaintiffs allege that if this Court does not
6 intervene to preserve the status quo, there will
7 be no way to unring the bell once the banks give Congress the
8 requested information.

9 The Court agrees. In this circuit, it is well settled
10 that individuals whose financial records
11 are subpoenaed possess a privacy interest in their personal
12 financial affairs that gives them standing to move to quash a
13 subpoena served on a non-party financial institution, which is
14 why all parties appear to agree that plaintiffs have standing
15 to challenge subpoenas that were issued to them directly.
16 Citing *Arias-Zeballos v. Tan*, reported at 2007 WL 210112.

17 In this case, the inevitable impingement of the
18 same privacy interests that suffice to confer standing to
19 plaintiffs also suffice to demonstrate a likelihood of
20 irreparable harm. Courts in this circuit have recognized that
21 the disclosure of private, confidential information is the
22 quintessential type of irreparable harm that cannot be
23 compensated or undone by money damages. Citing, *Airbnb, Inc.*
24 *v. City of New York*, report at 2019 WL 91990.

25 It is true that some courts outside of this circuit

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1 have questioned whether the mere disclosure of information,
2 absent evidence of misuse or unauthorized disclosure by the
3 receiving party automatically constitutes irreparable
4 injury. See, e.g., *Baker DC v. National Labor Relations Bd.*,
5 102 F. Supp. 3d 194, from the District of D.C. The Court is of
6 the opinion, however, that plaintiffs possess strong privacy
7 interests in their financial information such that unwanted
8 disclosure may properly constitute irreparable injury, without
9 an additional showing of likelihood of misuse or unauthorized
10 disclosure by the recipient.

11 The committees disagree and proffer two arguments why
12 the Court should find that plaintiffs have failed to show a
13 likelihood of irreparable harm. Neither argument is
14 persuasive, and in fact, in oral argument, I understood them to
15 concede that the Trump organization and Trump family members
16 would suffer irreparable harm.

17 First, the committees contended that plaintiffs have
18 provided no actual evidence of their potential injury, but the
19 very act of disclosure to Congress is itself the injury that is
20 both inevitable, absent an injunction, and irreparable.

21 The Committees attempt to differentiate between
22 disclosure to Congress and disclosure to the public, arguing
23 that the former is somehow not a cognizable injury. The Court
24 is unpersuaded. Here, plaintiffs have an interest in keeping
25 their records private from everyone, including congresspersons,

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1 and that interest necessarily will be impinged by the
2 records' disclosure to the committees. In any event, the
3 committees have not committed one way or the other to keeping
4 plaintiffs' records confidential from the public once received.

5 Accordingly, the Court finds that plaintiffs have
6 shown a likelihood of irreparable harm absent an injunction.

7 The Court begins with the statutory claim, because
8 there is no need to address plaintiffs' constitutional claim if
9 the committees are bound by the RFPA and have, in fact,
10 violated it.

11 Plaintiffs contend that the committees issued the
12 challenged subpoenas in violation of the requirements of the
13 RFPA. The RFPA provides that no government authority may have
14 access to or obtain copies of information containing the
15 financial records of any customer from a financial institution
16 unless certain notification and certification requirements are
17 met.

18 Plaintiffs argue that Congress is a government
19 authority for purposes of the RFPA and that, as government
20 authorities, the committees failed to act in accordance with
21 the RFPA before issuing the challenged subpoenas.

22 The Court disagrees. The Committees have provided
23 sound arguments why the RFPA does not apply to Congress.

24 First, as mentioned above, the RFPA applies to
25 government authorities. While plaintiffs urge the Court to

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1 resort to Black Law's Dictionary to define this statutory term,
2 it is unnecessary. Congress expressly defined the term
3 "government authority" in RFPA. Pursuant to that statute,
4 "government authority" means any agency or department of the
5 United States, or any officer or agent thereof.

6 Thus, if Congress is not an agency or department of
7 the United States, then the statute does not apply to Congress.
8 The Court finds the Supreme Court's reasoning in *Hubbard v.*
9 *United States*, reported at 514 U.S. 695 controlling here.
10 There, the Court explored the reach of 18 U.S.C. 1001, a
11 statute criminalizing knowingly false representations made in
12 any matter within the jurisdiction of any department or agency
13 of the United States.

14 The question presented was whether 1001 applies
15 to false statements in judicial proceedings. The Court held
16 that it didn't and instead generally only refers to the
17 Executive Branch. The Court held that it didn't unless the
18 context of the statute strongly suggests that the phrase was
19 intended to describe more than just the Executive Branch.
20 In so holding, the Court expressly overruled its prior decision
21 in *United States v. Bramblett*, which held that the phrase
22 "department," as used in 1001, referred to the
23 executive, judicial, and legislative branches of government.

24 Of course, the RFPA arises in a different title of the
25 United States Code, but the Supreme Court's interpretation in

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1 Hubbard wasn't limited to any particular statutory provision.
2 Rather, the Court found that a straightforward interpretation
3 of the phrase "department or agency" leads inexorably to the
4 conclusion that the phrase only covers the Executive Branch.

5 Moreover, as detailed in the Committees' papers, the
6 structure and context of the RFPA makes clear that Congress did
7 not believe it was binding itself to the RFPA. More on this
8 point need not be said. Congress is not bound by the RFPA.

9 Plaintiffs are also unlikely to succeed on the merits
10 of their constitutional claim. Turning to plaintiffs' claim
11 that the committees' subpoenas violate the Constitution, the
12 Court concludes that plaintiffs are unlikely to succeed on the
13 merits.

14 As today's argument and the parties' moving papers
15 make clear, plaintiffs challenge the committees'
16 subpoenas on four principal grounds: the committees' subpoenas
17 are not supported by a legitimate legislative purpose; the
18 committees' subpoenas are really an unlawful exercise
19 of law-enforcement power; the committees' subpoenas are overly
20 broad; and finally, the committees' motives in issuing the
21 subpoenas render the subpoenas unlawful, as they seek
22 exposure for the sake of exposure.

23 The Court addresses and rejects, each argument in
24 turn, and begins by setting forth the legal principles guiding
25 its analysis.

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1 A review of the relevant case law makes clear that the
2 Committees' investigative power is broad, yet not unlimited.
3 Article 1 of the United States Constitution vests Congress with
4 all legislative powers. While Article 1 does not expressly
5 refer to Congress' investigative powers, Congress' authority
6 to investigate matters related to contemplated legislation is
7 beyond debate.

8 As the Supreme Court has explained, there can be no
9 doubt as to the power of Congress, by itself or through its
10 committees, to investigate matters and conditions relating to
11 contemplated legislation. This power, deeply rooted in
12 American and English institutions, is indeed co-extensive with
13 the power to legislate. Without the power to investigate,
14 including of course the authority to compel testimony, either
15 through its own processes or through judicial trial, Congress
16 could be seriously handicapped in its efforts to exercise its
17 constitutional function wisely and effectively. Citing *Quinn*
18 *v. United States*, 349 U.S. 155.

19 So too is the committees' general authority to issue
20 subpoenas well settled, given that committee members serve as
21 the representatives of the parent assembly in collecting
22 information for a legislative purpose and their function is to
23 act as the eyes and ears of the Congress in obtaining facts
24 upon which the full legislature can act. *Watkins v. United*
25 *States*, 354 U.S. 178.

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1 As alluded to in the quotes recited, congressional
2 investigations must be in furtherance of a legislative purpose.
3 As the Supreme Court has explained, an essential premise in
4 this situation is that the House or Senate shall have
5 instructed the committee members on what they are to do with
6 the power delegated to them. It is the responsibility of the
7 Congress, in the first instance, to ensure that compulsory
8 process is used only in furtherance of a legislative
9 purpose. That requires that the instructions of an
10 investigating committee spell out that group's jurisdiction and
11 purpose with sufficient particularity. Those instructions are
12 embodied in the authorizing resolution. That document is the
13 committee's charter. Citing *Watkins* again.

14 However, that Congress must investigate in
15 furtherance of a legislative purpose does not mean that the
16 Congress is constrained to investigations in furtherance of
17 contemplated legislation in the form of a bill or statute.
18 Congress performs many different functions attendant to its
19 legislative function under the Constitution.

20 Congress' power also includes a more general informing
21 function, that is, the power of the Congress to inquire into
22 and publicize corruption, maladministration or inefficiency in
23 agencies of the Government. Again citing *Watkins*.

24 Put simply, the power of the Congress to conduct
25 investigations is inherent in the legislative process. That

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1 power is broad. It encompasses inquiries concerning the
2 administration of existing laws, as well as proposed or
3 possibly needed statutes. It includes surveys of defects in
4 our social, economic or political system for the purpose of
5 enabling Congress to remedy them. It comprehends probes into
6 departments of the Federal Government to expose corruption,
7 inefficiency or waste. Citing *Watkins*.

8 While broad, Congress' investigative powers are not
9 unlimited. Rather, its powers are subject to several
10 limitations, five of which will be mentioned now.

11 First, the subject of any inquiry must be one on which
12 legislation could be had. Citing *Eastland*, 421 U.S. at 504.
13 This means that, in determining the constitutionality of
14 requests for information, pursuant to a congressional
15 investigation, a court must first determine whether an
16 investigation is related to a valid legislative purpose, for
17 Congress may not constitutionally require an individual to
18 disclose his political relationships or other private affairs
19 except in relation to such a purpose. Citing *Barenblatt v.*
20 *United States*, 360 U.S. 109.

21 Second, the Bill of Rights is applicable to
22 congressional investigations as to all forms
23 of governmental action, and serves to limit Congress'
24 investigative powers.

25 Third, while the public is entitled to be informed

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1 concerning the workings of its government, the Supreme Court
2 has made clear that this entitlement cannot be inflated into a
3 general power to expose, where the predominant result can only
4 be an invasion of the private rights of individuals.

5 Fourth, since Congress may only investigate into those
6 areas in which it may potentially legislate or appropriate, it
7 cannot inquire into matters which are within the exclusive
8 province of one of the other branches of the Government.
9 Lacking the judicial power given to the Judiciary, it cannot
10 inquire into matters that are exclusively the concern of the
11 Judiciary. Neither can it supplant the Executive in what
12 exclusively belongs to the Executive. Citing *Barenblatt*.

13 Fifth, and finally, when analyzing the investigative
14 boundaries of congressional subcommittees, such as the
15 committees here, the committees' investigative boundaries are
16 defined by its source. Citing *Eastland*. Thus, with respect to
17 the committees, their powers are further restricted to the
18 missions delegated to them, i.e., to acquire certain data
19 to be used by the House or the Senate in coping with a problem
20 that falls within its legislative sphere and, consequently, no
21 witness can be compelled to make disclosures on matters
22 outside that area.

23 Among other sources to consider in ascertaining a
24 subcommittee's boundaries in a given investigation, courts may
25 consider the congressional resolutions authorizing the

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1 investigation, the committee's jurisdictional statements, and
2 statements of the members of the committee. *Shelton v. United*
3 *States*, 404 F.2d 1292.

4 The committees' subpoenas have a legitimate
5 legislative purpose. Plaintiffs argue that the committees'
6 subpoenas lack a legitimate legislative purpose. The Court
7 disagrees.

8 The Committee of Financial Services and the Permanent
9 Select Committee on Intelligence issued substantively identical
10 subpoenas for records to Deutsche Bank on April 15. That same
11 day, the Committee of Financial Services issued a similar
12 subpoena to Capital One Financial Corporation. The committees,
13 through their subpoenas, seek financial records and account
14 information related to Plaintiffs that mostly date back to
15 2010. However, with respect to some records, such as, for
16 example, documents related to account applications,
17 opening documents, know your customer, due diligence,
18 et cetera, revealing financial relationships between plaintiffs
19 and any foreign individuals, entities, or governments, there is
20 no time limitation.

21 In analyzing whether the committees acted within their
22 constitutional boundaries, the Court first looks to each
23 committee's respective jurisdiction. With respect to the
24 Committee on Financial Services, according to Rule X of the
25 Rules of the House of Representatives for the

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1 116th Congress, the Committee on Financial Services enjoys
2 jurisdiction over matters relating to, among other subjects,
3 banks and banking, including deposit insurance and federal
4 monetary policy, insurance generally, international finance,
5 and international financial and monetary organizations.

6 According to Rule X, as a standing committee, the
7 Committee on Financial Services is also charged with general
8 oversight responsibilities to assist the House of
9 Representatives in its analysis, appraisal, and evaluation of,
10 among other subjects, the application, administration,
11 execution, and effectiveness of federal laws; and, importantly,
12 conditions and circumstances that may indicate the necessity or
13 desirability of enacting new or additional legislation.

14 The Committee on Financial Services contends that it
15 is investigating whether existing policies and programs at
16 financial institutions are adequate to ensure the safety and
17 soundness of lending practices, and the prevention of loan
18 fraud.

19 It points the Court to news sources reporting that
20 financial institutions have issued more than \$1 trillion in
21 large corporate loans, called leveraged loans, to heavily
22 indebted companies that may be unable to repay those
23 loans. It contends that it's investigating the lending
24 practices of financial institutions, including Deutsche Bank,
25 for loans issued to the Trump family and companies controlled

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1 by President Trump.

2 Citing news sources reporting that over the years,
3 Deutsche Bank has provided more than \$2 billion in loans to
4 President Trump, despite concerns raised by senior bank
5 officials regarding some of the loans. It contends that it's
6 investigating industry-wide compliance with banking statutes
7 and regulations, particularly anti-money laundering policies.

8 Importantly, it points to House Resolutions
9 originating in the committee and predating the subpoenas, that
10 support its representations to the Court. For example, House
11 Resolution 206, introduced by Chairwoman Maxine Waters on
12 March 8, 2019, and passed by a floor vote on March 13, 2019,
13 the House expressed that money laundering and other financial
14 crimes are serious threats to our national and economic
15 security, and resolved to acknowledge that the lack of sunlight
16 and transparency in financial transactions poses a threat
17 to our country; to support efforts to close money laundering
18 loopholes; to encourage transparency; to detect and deter
19 financial crimes; and to urge financial institutions to comply
20 with various anti-money laundering laws and regulations.

21 The Committee on Financial Services believes that the
22 challenged subpoenas further its investigations bearing upon
23 the integrity of the U.S. financial system and the national
24 security, including bank fraud, money laundering, foreign
25 influence in the U.S. political process, and the

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1 counterintelligence risks posed by foreign powers' use of
2 financial leverage.

3 It maintains that the banks' lending practices,
4 including loans made to plaintiffs, are an important piece to
5 that investigation, as the subpoenas seek records relating to
6 individuals and entities, including plaintiffs, that may have
7 served as conduits for illicit funds or may not have
8 been properly underwritten, and the public record establishes
9 that they serve as a useful case study for the broader problems
10 being examined by the committee.

11 Based on the aforementioned, the Court concludes that
12 this committee's investigation and attendant subpoenas are in
13 furtherance of a legitimate legislative purpose, plainly
14 related to the subjects on which legislation can be had.

15 With respect to the Permanent Select Committee on
16 Intelligence, according to Rule X, this committee enjoys
17 jurisdiction over matters relating to, among other subjects,
18 intelligence and intelligence-related activities of all other
19 departments and agencies of the government, and the
20 organization or reorganization of a department or agency of the
21 government, to the extent that the organization or
22 reorganization relates to a function or activity involving
23 intelligence or intelligence-related activities.

24 The Permanent Select Committee is also charged with
25 special oversight functions. Specifically, the Committee is

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1 charged with, among other responsibilities, reviewing and
2 studying on a continuing basis laws, programs, and activities
3 of the intelligence community.

4 The Intelligence Committee contends that it is
5 currently investigating efforts by Russia and other foreign
6 powers to influence the U.S. political process during and since
7 the 2016 election, including financial leverage that foreign
8 actors may have over President Trump, his family, and his
9 business, and the related counterintelligence, national
10 security, and legislative implications.

11 Moreover, the Committee contends that it is evaluating
12 whether the structure, legal authorities, policies, and
13 resources of the U.S. Government's intelligence,
14 counterintelligence, and law enforcement elements are adequate
15 to combat such threats to national security. The Intelligence
16 Committee justifies its subpoena on the ground that its
17 investigation requires an understanding of Mr. Trump's complex
18 financial arrangements, including how those arrangements
19 intersect with Russia and other foreign governments and
20 entities.

21 The Committee further argues that this inquiry is, by
22 definition, not limited to Mr. Trump's time in office and,
23 given the closely held nature of the Trump Organization, must
24 include his close family members. Among other items, the
25 Intelligence Committee points to a press release by its

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1 Chairman, dated February 6, 2019, in which Chairman Schiff
2 stated that the Intelligence Committee would conduct a rigorous
3 investigation into efforts by Russia and other foreign entities
4 to influence the U.S. political process during and since the
5 2016 U.S. election; and that the Committee would work to
6 fulfill its responsibility to provide the American people with
7 a comprehensive accounting of what happened, and what the
8 United States must do to protect itself from future
9 interference and malign influence operations.

10 In this press release, Chairman Schiff further stated
11 that the committee also plans to develop legislation and policy
12 reforms to ensure the U.S. government is better positioned to
13 counter future efforts to undermine our political process and
14 national security.

15 Based on the aforementioned, the Court concludes that
16 this Committee's investigation and attendant subpoena is in
17 furtherance of a legitimate legislative purpose, plainly
18 related to subjects on which legislation can be had.

19 Plaintiffs contend that the committees' purported
20 agendas are solely focused on oversight and transparency,
21 which, in a vacuum, are not legitimate legislative purposes
22 that can justify subpoenaing a private citizen. But Congress'
23 investigative power is not judged in a vacuum. As explained in
24 *Barenblatt*, the congressional power of inquiry, its range and
25 scope, and an individual's duty in relation to it, must be

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1 viewed in proper perspective. The power and the right of
2 resistance to it are to be judged in the concrete, not on the
3 basis of abstractions.

4 And here, the Committees seek financial information
5 pertinent to specific areas of investigation on which
6 legislation could be had. As the D.C. Circuit recognized in
7 *Shelton*, in deciding whether the purpose is within the
8 legislative function, the mere assertion of a need to consider
9 remedial legislation may not alone justify an investigation
10 accompanied with compulsory process, but when the purpose
11 asserted is supported by references to specific problems which
12 in the past have been or which in the future could be the
13 subjects of appropriate legislation, then a court cannot say
14 that a committee of the Congress exceeds its broad power when
15 it seeks information in such areas.

16 Simply put, the committees' subpoenas all are in
17 furtherance of facially legitimate legislative purposes.

18 Next, and relatedly, plaintiffs contend that the
19 committees' subpoenas as "outrageously broad," given the
20 information the committees seek long predates the President's
21 election to office, reaches well beyond the transactions
22 associated with foreign parties, and encompasses reams of
23 account records for entities, individuals, children, and
24 spouses, who have never even been implicated in any probe.

25 Plaintiffs contend that the financial conduct of

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1 private citizens years before they were anywhere near public
2 office, has nothing to do with government oversight.

3 The Court finds Plaintiffs' contention unpersuasive.
4 Based on the cases cited by the parties in their papers, they
5 seem to agree that so long as the requested information in the
6 subpoenas are pertinent to legitimate legislative purposes of
7 the committees, the subpoenas are not overly broad, and the
8 Court need not conduct a line-by-line review of the information
9 requested.

10 The Supreme Court has previously concluded that where
11 the records called for by a subpoena were not plainly
12 incompetent or irrelevant to any lawful purpose of a
13 subcommittee in the discharge of its duties, but, on the
14 contrary, were reasonably relevant to the inquiry, then such
15 records are, in fact, pertinent. Citing *McPhaul v. United*
16 *States*, reported at 364 U.S. 372.

17 As noted by Judge Mehta in his opinion earlier this
18 week, the standard adopted by the Supreme Court is a forgiving
19 one. Here, as mentioned earlier, the committees' subpoenas
20 seek plaintiffs' financial information mostly dating back to
21 2010. The committees contend that this information is
22 necessary to investigate serious and urgent questions
23 concerning the safety of banking practices, money laundering in
24 the financial sector, foreign influence in the U.S. political
25 process, and the threat of foreign financial leverage,

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1 including over the President, his family, and his business.

2 In light of the scope of the committees'
3 investigations, the Court finds the committees' requests for
4 information, while undeniably broad, is clearly pertinent to
5 the committees' legitimate legislative purposes. Consequently,
6 the Court will not engage in a line-by-line review of the
7 subpoenas' requests, merely because some requests may be more
8 pertinent than others.

9 As the Supreme Court has made clear, the wisdom of
10 congressional approach or methodology is not open to judicial
11 veto, nor is the legitimacy of a congressional inquiry to be
12 defined by what it produces. The very nature of the
13 investigative function, like any research, is that it takes the
14 searchers up some blind alleys and into nonproductive
15 enterprises. To be a valid legislative inquiry, there need be
16 no predictable end result. Citing *Eastland*.

17 Next, the plaintiffs challenge the subpoenas on the
18 ground that the committees have never identified a single piece
19 of legislation within their respective jurisdictions that they
20 are considering. While that argument may be true as far as it
21 goes, it is also irrelevant. Congress need not issue proposed
22 legislation prior to the start of an investigation; it need not
23 pass a bill; and it need not have particular legislation in
24 mind when conducting a legitimate, lawful investigation in aid
25 of its legislative function.

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1 As the Supreme Court noted in *Watkins*, most of
2 instances of use of compulsory process by the first Congress
3 concerned matters affecting the qualification or integrity of
4 their members or came about in inquiries dealing with suspected
5 corruption or mismanagement of government officials. There was
6 very little use of the power of compulsory process in early
7 years to enable the Congress to obtain facts pertinent to the
8 enactment of new statutes or the administration of existing
9 laws.

10 As explained by the Second Circuit, it is immaterial
11 that in the past a particular committee has proposed but little
12 legislation. Information gained by a committee might well aid
13 Congress in performing its legislative duties, in deciding that
14 the public welfare required the passage of new statutes or
15 changes in existing ones, or that it did not.

16 *United States v. Josephson*, 165 F.2d 82.

17 Again, as stated earlier, and quoting the Supreme
18 Court in *Eastland*, the subject of the congressional
19 inquiry simply must be one "on which legislation could be had."

20 Accordingly, plaintiffs' argument on this point fails.

21 Next, the Committees contend that, at best, the
22 Committees seek these documents so they can conduct
23 law-enforcement activities that the Supreme Court has held are
24 reserved to the other branches. The Court disagrees. The
25 Supreme Court has made clear that the power to investigate

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1 should not be confused with any of the powers of law
2 enforcement. Those powers are assigned under our Constitution
3 to the Executive and the Judiciary. *Quinn v. United States*,
4 349 U.S. 155.

5 However, the Supreme Court has also made clear that a
6 congressional investigation is not transformed into the invalid
7 exercise of law enforcement authority merely because the
8 investigation might possibly disclose crime or wrongdoing.
9 Citing *McGrain*.

10 Similarly, the Supreme Court has recognized that while
11 it may be conceded that Congress is without authority to compel
12 disclosures for the purpose of aiding the prosecution of
13 pending suits, the authority of Congress, directly or through
14 its committees, to require pertinent
15 disclosures in aid of its own constitutional power is not
16 abridged because the information sought to be elicited may also
17 be of use in such suits. Citing *Sinclair*, 279 U.S. at 295.

18 The Supreme Court has clearly acknowledged that many
19 powers of government overlap. Thus, in determining whether a
20 congressional investigation has morphed into an impermissible
21 law enforcement investigation, the critical inquiry is whether
22 Congress has exercised an exclusive power of the Judiciary or
23 Executive.

24 For example, in *Barenblatt v. United States*, the
25 Supreme Court affirmed an individual's conviction for contempt

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1 of Congress arising from his refusal to answer questions
2 posited to him by a subcommittee of the House of
3 Representatives. In so holding, the Supreme Court noted that
4 whereas "Congress may only investigate into those areas
5 in which it may potentially legislate or appropriate, it cannot
6 inquire into matters which are within the exclusive province of
7 one of the other branches of the Government."

8 Similarly, in *Kilbourn*, the Supreme Court limited
9 congressional investigative power to situations where "[1] the
10 investigation which the committee was directed to make was
11 judicial in character; and [2] could only be properly and
12 successfully made by a court of justice; and [3] related to a
13 matter wherein relief or redress could be had only by a
14 judicial proceeding."

15 Likewise, in *Tenney v. Brandhove*, the Supreme Court
16 stated that in order "to find that a committee's investigation
17 has exceeded the bounds of legislative power it must be obvious
18 that there was a usurpation of functions exclusively vested in
19 the Judiciary or the Executive."

20 Here, however, it is not obvious that the committees
21 usurped any powers exclusively vested in the Judiciary or the
22 Executive when it issued the challenged subpoenas. There is
23 nothing here to suggest that the sole function of the
24 challenged subpoenas is to amass evidence either to prosecute
25 plaintiffs, civilly or criminally. On the contrary, the

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1 committees have provided ample justification establishing
2 clear, legitimate legislative purposes for the information
3 requested in the subpoenas.

4 Accordingly, contrary to plaintiffs' protestations,
5 the Court finds that the committees' investigations and
6 attendant subpoenas do not constitute impermissible law
7 enforcement activities.

8 Finally, plaintiffs contend that regardless of whether
9 the challenged subpoenas further legitimate legislative
10 purposes, this Court should, nonetheless, enjoin the banks from
11 complying with them because the committees really want to
12 collect and expose the financial documents of the President and
13 his children and grandchildren for the sake of exposure.

14 In response, the committees contend that plaintiffs'
15 contention is unsupported by anything other than political
16 rhetoric and press statements, and note that even if plaintiffs
17 had provided some basis to question the committees' motives,
18 the Court should not look behind the legitimate legislative
19 purpose of the investigations.

20 The Court agrees with the committees. The committees'
21 alleged ulterior motives, even if such exist, are insufficient
22 to vitiate their subpoena powers. In their papers, plaintiffs
23 quote *Watkins* for the notion that there is no congressional
24 power to expose for the sake of exposure. That much is true.

25 Had plaintiffs read further, however, they would

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1 realize that the propriety of legislative motives is not a
2 question left to the courts. As the Supreme Court explained in
3 the same paragraph relied upon by plaintiffs: We have no doubt
4 that there is no congressional power to expose for the sake of
5 exposure. The public is, of course, entitled to be informed
6 concerning the workings of its government. That cannot be
7 inflated into a general power to expose, where the predominant
8 result can only be an invasion of the private rights
9 of individuals.

10 But a solution to our problem is not to be found in
11 testing the motives of committee members for this purpose.
12 Such is not our function. Their motives alone would not
13 vitiate any investigation which had been instituted by a
14 House of Congress if that assembly's legislative purpose is
15 being served.

16 Put simply, even in the face of investigations in
17 which the predominant result is exposure of an individual's
18 privacy, courts generally lack authority to halt an
19 investigation otherwise supported by a facially legitimate
20 legislative purpose.

21 The Supreme Court has repeated this over and over
22 again. See, e.g., *Eastland*, at 508 ("Our cases make clear that
23 in determining the legitimacy of a congressional act, we do not
24 look to the motives alleged to have prompted it."); *Sonzinsky*
25 *v. United States*, 300 U.S. 506 ("Inquiry into the hidden

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1 motives which may move Congress to exercise a power
2 constitutionally conferred upon it is beyond the competency of
3 courts."); *Smith v. Kansas City Title & Tr. Co.*, 255 U.S. 180,
4 ("Nothing is better settled by the decisions of this court than
5 that, when Congress acts within the limits of its
6 constitutional authority, it is not the province of the
7 judicial branch of the government to question
8 its motives."); and *United States v. O'Brien*, 391 U.S. 367,
9 ("It is a familiar principle of constitutional law that this
10 Court will not strike down an otherwise constitutional statute
11 on the basis of an alleged illicit legislative motive.").

12 Of course, it is true that abuses of the investigative
13 process may imperceptibly lead to abridgment of protected
14 freedoms. Citing *Watkins*. But this danger, too, has been
15 addressed thoroughly by the Supreme Court in prior decisions.
16 The Supreme Court has detailed the remedy for all left
17 uncomfortable with the idea of a congressional committee
18 probing through the financial history of an individual on
19 grounds, pretextual, even if technically legal.

20 In *Barenblatt*, the Supreme Court said: "It is, of
21 course, true that if there be no authority in the judiciary to
22 restrain a lawful exercise of power by another department of
23 the government, where a wrong motive or purpose has impelled to
24 the exertion of the power, that abuses of a power conferred may
25 be temporarily effectual. The remedy for this, however,

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1 lies not in the abuse by the judicial authority of its
2 functions, but in the people upon whom, after all, under our
3 institutions, reliance must be placed for the correction of
4 abuses committed in the exercise of a lawful power."

5 In other words, the correction of abuses committed in
6 the exercise of a lawful power is a matter left to voters, not
7 judges. Moreover, the propriety of making plaintiffs' finances
8 a subject of the committees' investigation is a subject on
9 which the scope of the Court's inquiry is narrow. Citing
10 *Eastland*.

11 The wisdom of this approach is beyond reproach. As
12 explained by the Supreme Court, inquiries into congressional
13 motives or purposes are a hazardous matter. Citing *O'Brien*,
14 391 U.S. at 383. And in times of political passion, dishonest
15 or vindictive motives are readily attributed to legislative
16 conduct and as readily believed.

17 Thus, as the Court stated in *Barenblatt*, so long as
18 Congress acts in pursuance of its constitutional power, the
19 Judiciary lacks authority to intervene on the basis of the
20 motives which spurred the exercise of that power. Accordingly,
21 the Court finds that the committees' alleged ulterior motives,
22 assuming they exist, do not vitiate the legitimate legislative
23 purposes supporting the challenged subpoenas.

24 At bottom, the committees' power to issue and enforce
25 the subpoenas at issue is well settled. What's more, it is

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1 appropriate to observe that just as the Constitution forbids
2 the Congress to enter fields reserved to the Executive and
3 Judiciary, it imposes on the Judiciary the reciprocal duty of
4 not lightly interfering with Congress's exercise of its
5 legitimate powers. Citing *Hutcheson*, 369 U.S. at 622.

6 Having been satisfied that the committees have
7 exercised their legitimate powers in issuing the challenged
8 subpoenas, the Court concludes that plaintiffs are highly
9 unlikely to succeed on the merits of their constitutional
10 claim, a conclusion that weighs against preliminary injunctive
11 relief.

12 The Court now turns to whether they have, nonetheless,
13 shown sufficiently serious questions going to the
14 merits of their claim, along with a balance of hardships tipped
15 decidedly in their favor.

16 To begin, the Court notes that, based on the facts of
17 this particular case, it is uncertain whether plaintiffs may
18 show entitlement to injunctive relief merely by showing serious
19 questions going to the merits.

20 The Second Circuit has explained that where the moving
21 party seeks to stay government action taken in the public
22 interest pursuant to a statutory or regulatory scheme, the
23 district court should not apply the less rigorous "serious
24 questions" standard and should not grant the injunction unless
25 the moving party establishes, along with irreparable injury, a

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1 likelihood that he will succeed on the merits of his claim.

2 Citing *Citigroup*, 598 F.3d at 35.

3 This exception reflects the idea that governmental
4 policies implemented through legislation or regulations
5 developed through presumptively reasoned democratic processes
6 are entitled to a higher degree of deference and should not be
7 enjoined lightly.

8 Here, of course -- let me read ahead -- plaintiffs
9 contend that they have identified several serious questions
10 warranting preservation of the status quo because if the Court
11 accepts the committees' view of the law, then Congress can
12 issue a subpoena on any matter, at any time, for any reason, to
13 any person, and there is basically nothing a federal court can
14 do about it.

15 But, as previously explained, that is not the case.
16 There are several limits to the Committees' power to
17 investigate in aid of its legislative functions.

18 Plaintiffs similarly point out that the question
19 whether the RFPA applies to Congress is one that this Court
20 will be the first in the country to decide. But, while that
21 may be true, plaintiffs' statutory argument fails to rise to
22 the level of "serious," as the plain text and structure of the
23 RFPA, along with binding Supreme Court precedent interpreting
24 substantively identical language, strongly undercut their
25 proposed interpretation of the statute.

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1 Finally, plaintiffs urge the Court to go the way of
2 the Court of Appeals in *Eastland* by staying this case pending a
3 decision on the merits. In *Eastland*, the Court of Appeals
4 stayed enforcement of a congressional subpoena directing a bank
5 to produce the financial records of an organization. While the
6 ultimate question decided in *Eastland* is the same presented
7 here, that is, whether a congressional subpoena issued to a
8 third party was a product of legitimate legislative activity, a
9 question, by the way, answered in the affirmative by the
10 Supreme Court, the procedural postures differ greatly,
11 warranting a different result here.

12 Central to the Court of Appeals' decision to grant a
13 stay in *Eastland*, aside from its determination that
14 irreparable harm was likely to befall plaintiffs absent
15 intervention, was its determination that serious constitutional
16 questions were presented by this litigation, which require more
17 time than is presently available for proper consideration.
18 Citing 488 F.2d at 1256.

19 The challenged subpoena in that case was issued on
20 May 28, 1970, with a return date of June 4. The organization
21 sued to enjoin compliance with the subpoena on June 1. The
22 district court denied the injunction on June 1. Thus, while
23 the record is unclear as to when the organization noted an
24 appeal, at most, the Court of Appeals had two days to review
25 the merits of plaintiff's arguments before the return date was

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1 to take effect.

2 Indeed, the Court of Appeals noted that the decisive
3 element in their decision to stay the case was that, absent a
4 stay, the case would be mooted on the same morning that their
5 decision issued. Consequently, with only, at most, two days to
6 have reviewed plaintiff's application, a stay was a prudent
7 move by the Court of Appeals.

8 Here, plaintiffs first filed suit on April 29, 2019.
9 So the Court had the case before it for roughly three weeks, as
10 compared with, at most, two days in *Eastland*; and, while the
11 instant motion remains pending, the committees have agreed not
12 to enforce the subpoenas. So the Court had the benefit of the
13 time necessary to thoroughly consider the merits of
14 plaintiffs' motion. As well, I should note, the thorough
15 opinion of Judge Mehta of the D.C. District Court.
16 Consequently, the Court of Appeals' actions in *Eastland* has
17 little bearing here.

18 Moreover, the biggest difference between the
19 circumstances before this Court and the Court of
20 appeals in *Eastland* is clear. The Court of Appeals in *Eastland*
21 did not have the benefit of the Supreme Court's opinion in
22 *Eastland*, which reversed the Court of Appeals in an
23 eight-to-one decision, laying out the same framework the Court
24 uses today to resolve this case.

25 So, while the question at the heart of this case

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1 concerning the extent congressional power may have been an open
2 and serious one before, it is not nearly so serious today.
3 Of course, use of congressional subpoena power to receive from
4 a third party a sitting President's financial records will
5 always be serious in that the outcome will have serious
6 political ramifications.

7 In the context of judicial interpretation, however,
8 the word "serious" relates to a question that is both serious
9 and open to reasonable debate. Otherwise, every complaint
10 challenging the power of one of the three coordinate branches
11 of government would result in preliminary relief, regardless of
12 whether established law renders the complaint unmeritorious.
13 Indeed, every litigant that comes before the Court seeks relief
14 that is she considers serious. That cannot be the law.

15 Whereas, here, a subdivision of Congress acts
16 plainly within its constitutional authority, preliminary
17 injunctive relief will not issue simply because the plaintiff
18 challenges that authority. More is required to demonstrate
19 entitlement to extraordinary and drastic relief in the form of
20 a preliminary injunction.

21 The Court concludes that plaintiffs have not raised
22 any serious questions going to the merits. As the above
23 analysis makes clear, the Supreme Court has likely foreclosed
24 the path plaintiffs ask this Court to travel. It is well
25 settled that the committees possessed the power to issue

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1 and enforce subpoenas of the type challenged by Plaintiffs, and
2 it is also plain, based on standard constructions of statutory
3 interpretation and prior Supreme Court cases, that the RFPA
4 is no hurdle to the committees' efforts to obtain the financial
5 information sought.

6 Accordingly, the Court finds that the statutory
7 questions in this case are not sufficiently serious in light of
8 the governing law. In any event, as explained below,
9 plaintiffs have failed to demonstrate that the balance of the
10 hardships weighs in their favor. Accordingly, even if the
11 questions were sufficiently serious, injunctive relief remains
12 unwarranted.

13 The Court finds that Plaintiffs have also failed to
14 establish that the balance of equities and hardships, along
15 with the public interest, favor a preliminary injunction.
16 These factors merge when the Government is the opposing party.
17 Citing *Nken*, 556 U.S. at 435.

18 The Court has found that the committees' subpoenas are
19 likely lawful. Thus, delaying what is likely lawful
20 legislative activity is inequitable. With respect to the
21 balance of hardships, plaintiffs compare the irreparable harm
22 that they are likely to suffer with what they maintain is the
23 committees' sole potential hardship, namely, some delay before
24 receiving the documents if the committees activities are deemed
25 lawful.

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1 Plaintiffs maintain that courts have consistently held
2 that such harm is given little weight. But here, the
3 committees have alleged a pressing need for the subpoenaed
4 documents to further their investigation, and it is not the
5 role of the Court or plaintiffs to second guess that need,
6 especially in light of the Court's conclusions that the
7 requested documents are pertinent to what is likely a lawful
8 congressional investigation.

9 What's more, because the House of Representatives is
10 not a "continuing body," see *Eastland*, 421 U.S. at 512, any
11 delay in the proceedings may result in irreparable harm to the
12 committees. Thus, the Court finds that the balance of
13 hardships and equities do not tip in plaintiffs' favor, much
14 less decidedly in their favor, as the standard in this circuit
15 requires.

16 Turning to the public interest, plaintiffs contend
17 that this factor weighs strongly in favor of preserving the
18 status quo because applying the law in a way that violates the
19 Constitution is never in the public's interest and no public
20 interest is advanced by allowing the committees to
21 enforce illegal subpoenas. These rationales, of course,
22 presupposes the subpoenas' illegality.

23 Here, the Court has already determined that there is a
24 strong likelihood that the committees actions are lawful, and
25 courts have long recognized a clear public interest in

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1 maximizing the effectiveness of the investigatory powers of
2 Congress. See e.g. *Exxon Corp. v. F.T.C.*, 589 F.2d 582.

3 And, in the committees' words, "Plaintiffs' contrary
4 argument ignores the clear and compelling public
5 interest in expeditious and unimpeded Congressional
6 investigations into core aspects of the financial and election
7 systems that touch every member of the public."

8 The Court agrees and, therefore, finds that the public
9 interest weighs strongly against a preliminary injunction.

10 As the Supreme Court noted in *Watkins*, "it is
11 unquestionably the duty of all citizens to cooperate with the
12 Congress in its efforts to obtain the facts needed for
13 legislative action. It is their unremitting obligation to
14 respond to subpoenas, to respect the dignity of the Congress
15 and its committees, and to testify fully with respect to
16 matters within the province of proper investigation."

17 Here, the Court finds that the challenged subpoenas
18 fall within the province of proper congressional investigation.
19 Accordingly, the Court will not enjoin the committees' efforts
20 to enforce the subpoenas.

21 Finally, Plaintiffs contend that the Court should
22 issue an injunction to preserve the status quo because refusing
23 to do so may otherwise moot their right to appeal, a classic
24 form of irreparable harm.

25 The Court is unpersuaded. Plaintiffs will have ample

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1 time to appeal the Court's decision before it takes effect.

2 The committees have already agreed to
3 suspend enforcement of the subpoenas until seven days following
4 resolution of plaintiffs' motion for preliminary injunction.

5 Once the Court's decision is entered on the docket,
6 plaintiffs may immediately appeal the decision to the Court of
7 Appeals, pursuant to 28 U.S.C. Section 1292(a)(1). Moreover,
8 plaintiffs are free to ask the Court of Appeals for a stay
9 pending review of this Court's decision, which the Court of
10 Appeals will have discretion to grant, if warranted.
11 Plaintiffs need not reinvent the wheel in applying for a stay,
12 given the substantial overlap between factors justifying a stay
13 and preliminary injunction. See e.g. *Nken v. Holder*, 556 U.S.
14 418.

15 Plaintiffs simply can, likely will, and almost
16 certainly must, proffer the same arguments raised here.
17 Indeed, the Court takes judicial notice that plaintiffs filed a
18 notice of appeal the following morning after the D.C. district
19 court ruled against them in that case earlier this week. Thus,
20 contrary to plaintiffs' arguments, refusal to issue an
21 injunction here would not moot plaintiffs' right to an appeal.

22 For the reasons set forth above, plaintiffs' motion
23 for a preliminary injunction is denied. That constitutes the
24 opinion of the Court.

25 And with that, Mr. Strawbridge, is there anything else

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1 that we need to do today?

2 MR. STRAWBRIDGE: Yes, your Honor. This may just be
3 pro forma, in light of your Honor's opinion. I do believe we
4 are required to request a stay of the district court pending
5 appeal. That result may be preordained, but I want to put on
6 the record that we are requesting a stay. I don't know if the
7 Court desires or wants briefing on that, or if it would like to
8 make the ruling clear now.

9 THE COURT: That application is denied.

10 MR. STRAWBRIDGE: All right. Then I also take it that
11 no administrative stay? The Court of Appeals' own
12 administrative stay is appropriate at this time?

13 THE COURT: That is correct.

14 MR. STRAWBRIDGE: Thank you, your Honor.

15 THE COURT: Mr. Letter?

16 MR. LETTER: I have nothing further, your Honor,
17 unless you have any questions.

18 THE COURT: I don't. What do the parties expect to be
19 their next steps? Mr. Strawbridge, I assume there will be an
20 appeal?

21 MR. STRAWBRIDGE: Obviously, I haven't had a chance to
22 talk to anybody yet, but that's probably a safe bet. We will,
23 obviously, confer with our client and take appropriate action
24 as quickly as we can.

25 THE COURT: We will put a short order on the docket as

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1 soon as practicable.

2 MR. STRAWBRIDGE: Okay. Thank you.

3 THE COURT: Thank you, folks. Unless there is
4 anything else, we are adjourned.

5 (Adjourned)

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DATE FILED: 5/22/2019

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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

Plaintiffs,

– against –

DEUTSCHE BANK AG and CAPITAL ONE FINANCIAL CORP.,

Defendants,

– and –

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

Intervenor-Defendants.

ORDER

19 Civ. 3826 (ER)

Ramos, D.J.:

For the reasons set forth on the record in today’s hearing, Plaintiffs’ motion for a preliminary injunction is DENIED, Plaintiffs’ motion for a stay pending appeal is DENIED, and the Committees’ application for consolidation is DENIED. The Clerk of Court is respectfully directed to terminate the motion, Doc. 26.

It is SO ORDERED.

Dated: May 22, 2019
New York, New York

Edgardo Ramos, U.S.D.J.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

DONALD J. TRUMP, DONALD J. TRUMP
JR., ERIC TRUMP, IVANKA TRUMP,

and

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

Plaintiffs,

- against -

DEUTSCHE BANK AG and CAPITAL ONE
FINANCIAL CORP.,

Defendants,

and

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

Intervenor-Defendants.

Docket No. 1:19-cv-03826-ER

NOTICE OF APPEAL

Plaintiffs (Donald J. Trump; Donald J. Trump Jr.; Eric Trump; Ivanka Trump; The Donald J. Trump Revocable Trust; The Trump Organization, Inc.; Trump Organization LLC; DJT Holdings LLC; DJT Holdings Managing Member LLC; Trump Acquisition LLC; and Trump Acquisition, Corp.) hereby appeal to the U.S. Court of Appeals for the Second Circuit this Court's order from May 22, 2019, denying Plaintiffs' motion for a preliminary injunction and denying Plaintiffs' motion for a stay pending appeal. *See* Dkt. 59.

Dated: May 24, 2019

s/ Marc L. Mukasey
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CERTIFICATE OF SERVICE

I certify that on May 24, 2019, I filed this notice via the CM/ECF system, which will notify counsel for all parties in this case.

Dated: May 24, 2019

s/ Patrick Strawbridge

CERTIFICATE OF SERVICE

I filed a true and correct copy of this joint appendix with the Clerk of this Court via the CM/ECF system, which will notify all counsel who are registered CM/ECF users.

Dated: June 18, 2019

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