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

OPPOSITION OF INTERVENOR-DEFENDANTS COMMITTEE ON FINANCIAL SERVICES AND PERMANENT SELECT COMMITTEE ON INTELLIGENCE OF THE U.S. HOUSE OF REPRESENTATIVES TO PLAINTIFFS' MOTION FOR A PRELIMINARY INJUNCTION

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May 10, 2019

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Intervenor-defendants the Committee on Financial Services and Permanent Select Committee on Intelligence of the U.S. House of Representatives (collectively, Committees) submit this response in opposition to the motion for a preliminary injunction, Pls.' Mem. (May 3, 2019), ECF No. 27, filed by Donald J. Trump (in his individual, not Presidential, capacity), 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 The Trump Acquisition Corporation (collectively, Mr. Trump or plaintiffs). Plaintiffs seek extraordinary relief that, if granted, would undermine the constitutional separation of powers and directly impede ongoing Congressional investigations implicating threats to national security and the U.S. financial system.

INTRODUCTION

Mr. Trump's request for a preliminary injunction betrays a fundamental misunderstanding of the powers of the Legislative Branch under our constitutional scheme and is flatly inconsistent with nearly a century of Supreme Court precedent. Congress's power to conduct oversight and investigations is firmly rooted in the constitutional separation of powers and is an essential component of Congress's Article I legislative authority. The Supreme Court has emphasized that "the power to investigate is inherent in the power to make laws because a legislative body cannot legislate wisely or effectively in the absence of information respecting the conditions which the legislation is intended to affect or change." *Eastland v. U.S. Servicemen's Fund*, 421 U.S. 491, 504 (1975) (cleaned up).

Contrary to Mr. Trump's allegation that the Committees are merely attempting to expose his finances, the Committees are investigating serious and urgent questions concerning the safety of banking practices, money laundering in the financial sector, foreign influence in the U.S. political process, and the threat of foreign financial leverage, including over the President, his

family, and his business. But rather than respect the Committees' legitimate investigations into these serious issues of national importance, Mr. Trump and his companies have continually engaged in stonewalling intended to obstruct and undermine these inquiries. This suit is Mr. Trump's latest attempt to prevent Congress from obtaining critical information needed to make informed legislative judgments and perform meaningful oversight.

Mr. Trump's disapproval of the Committees' investigations is not a legal basis for this Court to enjoin enforcement of the subpoenas. Given the need for an expeditious resolution of the subpoenas' validity, the Committees request that the Court consolidate the May 22, 2019 hearing with a decision on the merits. Fed. R. Civ. P. 65(a)(2); Order, *Trump v. Comm. on Oversight and Reform*, No. 19-cv-01136 (D.D.C. May 9, 2019) (ECF No. 25) (consolidating preliminary injunction hearing with trial on the merits under Rule 65(a)(2) in suit challenging a Congressional subpoena). This Court should deny the motion for a preliminary injunction and dismiss Mr. Trump's meritless complaint. *See Munaf v. Geren*, 553 U.S. 674, 705 (2008).

BACKGROUND

I. The Committees' Investigations

The Committees are conducting wide-ranging investigations of issues bearing upon the integrity of the U.S. financial system and national security, including bank fraud, money laundering, foreign influence in the U.S. political process, and the counterintelligence risks posed by foreign powers' use of financial leverage. Although the Committees are investigating matters related to the President, his business, and his family members—some of whom are also senior Executive Branch officials—they are doing so as part of much broader investigations to inform their legislative and oversight responsibilities, which include the issuance of subpoenas seeking information from other financial institutions about their practices with respect to clients other than the plaintiffs.

A. Committee on Financial Services's Investigations

The Committee on Financial Services, pursuant to its broad oversight and legislative jurisdiction over "[b]anks and banking, including deposit insurance and Federal monetary policy," as well as "[i]nternational finance," Rule X.1(h)(1), (5), Rules of the U.S. House of Representatives (116th Cong.) (House Rules),[1] is investigating serious issues regarding compliance with banking regulations, loan practices, and money laundering. As Chairwoman Maxine Waters recently explained, "[t]he movement of illicit funds throughout the global financial system raises numerous questions regarding the actors who are involved in these money laundering schemes and where the money is going."[2] Those concerns are "precisely why the Financial Services Committee is investigating the questionable financing provided to President Trump and the Trump Organization by banks like Deutsche Bank to finance his real estate properties."[3] The Chairwoman cautioned that "Congress must close these loopholes."[4]

Among other issues, the Committee is investigating whether existing policies and programs at financial institutions are adequate to ensure the safety and soundness of lending practices and the prevention of loan fraud. As recently reported, over the past two years, financial institutions have issued more than $1 trillion in large corporate loans (called leveraged loans) to heavily indebted companies that may be unable to repay those loans.[5] Relatedly, the

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[1] *Available at* https://tinyurl.com/HouseRules116thCong.

[2] 165 Cong. Rec. H2698 (daily ed. Mar. 13, 2019) (statement of Rep. Waters); *see also* H. Res. 206, 116th Cong. (2019); Press Release, U.S. House of Representatives Comm. on Financial Servs., House Passes Waters' Resolution Supporting Strong Anti-Money Laundering Efforts (Mar. 14, 2019), https://tinyurl.com/Mar14PressRelease.

[3] *Id.*

[4] *Id.*

[5] Damian Paletta, *How Regulators, Republicans and Big Banks Fought for a Big Increase in Lucrative But Risky Corporate Loans*, Wash. Post (Apr. 6, 2019), https://tinyurl.com/Wash-Post-Risky-Loans.

Committee is investigating the lending practices of financial institutions, including Deutsche Bank, for loans issued to the Trump family and companies controlled by Mr. Trump. Over the years, Deutsche Bank has reportedly provided more than $2 billion in loans to Mr. Trump, despite concerns raised by certain senior bank officials about some of the loans.[6]

The Committee is investigating industry-wide compliance with banking statutes and regulations, particularly anti-money laundering policies. For example, the Committee is investigating whether Deutsche Bank's programs are adequate to prevent the types of activities that led regulators to fine the bank for its role in facilitating a $10 billion so-called "mirror trading" scheme involving its Moscow, New York, and London offices[7] and its reported role as a conduit for the laundering of over $20 billion in rubles out of Russia.[8] This is important in determining the volume of illicit funds that may have flowed through the bank, and whether any touched the accounts held there by Mr. Trump, his family, or business. A full accounting of past failures in banking practices is critical to preventing similar illicit money flows going forward.

The Committee is also investigating the use of anonymous corporations as vehicles to launder illicit funds through legitimate investments and enterprises, including real estate and other investments, some of which are controlled by Mr. Trump. Public reports indicate that hundreds of millions of dollars in illicit funds have been used by shell companies to purchase

[6] David Enrich, *Deutsche Bank and Trump: $2 Billion in Loans and a Wary Board*, N.Y. Times (Mar. 18, 2019), https://tinyurl.com/NYT2BillioninLoans ($2 Billion in Loans).

[7] Jethro Mullen, *Deutsche Bank Fined for $10 Billion Russian Money-Laundering Scheme*, CNN Business (Jan. 31, 2017, 5:32 AM), https://tinyurl.com/CNNDeutscheBankFined; *see also* 165 Cong. Rec. H2697-98 (daily ed. Mar. 13, 2019) (statement of Rep. Waters).

[8] Luke Harding, *Deutsche Bank Faces Action over $20 Bn Russian Money-Laundering Scheme*, Guardian (Apr. 17, 2019, 6:01 AM), https://tinyurl.com/GuardianDeutscheFacesAction.

Trump properties.[9] The Committee is considering legislation that would increase transparency regarding ownership of anonymous shell corporations generally. *E.g.*, H. Res. 206, 116th Cong. (2019) (recognizing risk of money laundering and encouraging increased transparency); H.R. 2513, 116th Cong. (2019) (reforming corporate beneficial ownership disclosures); H.R. 2514, 116th Cong. (2019) (strengthening Bank Secrecy Act[10] and anti-money laundering provisions). As Chairwoman Waters has noted, "real estate is frequently used to launder dirty money. Bad actors like Russian oligarchs and kleptocrats often use anonymous shell companies and all-cash schemes to buy and sell commercial and residential real estate to hide and clean their money. Today, these all-cash schemes are exempt from the Bank Secrecy Act."[11]

The Committee has held hearings on the adequacy of the policies and programs at financial institutions that are the subject of the Committee's investigations and has long sought legislative solutions to combat all facets of financial crime, including money laundering.[12] *See, e.g.*, H.R. 1404, 116th Cong. (2019) (as passed by House, Mar. 12, 2019) (requiring Executive Branch agencies to submit reports to Congress regarding financial holdings of Russian President Vladimir Putin and top Kremlin-connected oligarchs).

B. Committee on Intelligence's Investigations

The House Permanent Select Committee on Intelligence has broad jurisdiction to inquire

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[9] *See, e.g.*, Oren Dorell, *Trump's Business Network Reached Alleged Russian Mobsters*, USA Today (Mar. 28, 2017, 5:05 PM), https://tinyurl.com/USATodayTrumpMobsters; Edward Robinson et al., *Was Trump SoHo Used to Hide Part of a Kazakh Bank's Missing Billions?*, Bloomberg (Dec. 11, 2017, 7:19 AM), https://tinyurl.com/BloombergMissingBillions; Nicholas Nehamas, *Before Donald Trump Attacked Foreigners, He Helped Sell Them Condos*, Miami Herald (Oct. 14, 2016, 10:00 AM), https://tinyurl.com/MiamiHeraldBeforeTrumpAttacked.

[10] 31 U.S.C. § 5311 *et seq.*

[11] 165 Cong. Rec. H2697-98 (daily ed. Mar. 13, 2019) (statement of Rep. Waters).

[12] *See, e.g.*, *Examining the BSA/AML Regulatory Compliance Regime: Hearing Before the Subcomm. on Fin. Insts. & Consumer Credit of the H. Comm. on Fin. Servs.*, 115th Cong. (2017); *Implementation of FinCEN's Customer Due Diligence Rule: Hearing Before the Subcomm. on Terrorism & Illicit Fin. of the H. Comm. on Fin. Servs.*, 115th Cong. (2018).

into "[i]ntelligence and intelligence-related activities." House Rule X.11(b)(1)(B). The Committee is charged with oversight of the Intelligence Community and all intelligence-related activities and programs of the United States Government. *See* H. Res. 658, 95th Cong. (1977). To that end, the Committee is investigating efforts by Russia and other foreign powers to influence the U.S. political process during and since the 2016 election—including financial leverage that foreign actors may have over President Trump, his family, and his business—and the related counterintelligence, national security, and legislative implications. The Committee is also evaluating whether the structure, legal authorities, policies, and resources of the U.S. Government's intelligence, counterintelligence, and law enforcement elements are adequate to combat such threats to national security.[13]

More specifically, the Committee is investigating, among other things: (1) "[t]he extent of any links and/or coordination between the Russian government, or related foreign actors, and individuals associated with Donald Trump's campaign, transition, administration, or business interests, in furtherance of the Russian government's interests"; (2) "[w]hether any foreign actor has sought to compromise or holds leverage, financial or otherwise, over Donald Trump, his family, his business, or his associates"; and (3) "[w]hether President Trump, his family, or his associates are or were at any time at heightened risk of, or vulnerable to, foreign exploitation, inducement, manipulation, pressure, or coercion, or have sought to influence U.S. government policy in service of foreign interests."[14]

As Chairman Schiff has explained, "[t]he Committee's ongoing investigation and

[13] Press Release, U.S. House of Representatives Permanent Select Comm. on Intelligence, Chairman Schiff Statement on House Intelligence Committee Investigation (Feb. 6, 2019), https://tinyurl.com/Feb6PressRelease (Chairman Schiff Press Release).

[14] *Id.*

oversight—alongside other committees' investigations—will inform a wide-range of legislation and appropriations decisions."[15] The Committee will rely on information gathered during its investigations to decide whether and how to "[s]trengthen legal authorities and capabilities for our intelligence and law enforcement agencies to better track illicit financial flows, including through shell companies, real estate and other means; to better identify counterintelligence risks; and to expose interference by foreign actors."[16] The Committee's investigation will also inform a host of pending legislative proposals to protect the U.S. political process and strengthen national security. *E.g.*, H.R. 2424, 116th Cong. (2019) (requiring federal campaign officials to notify law enforcement if offered assistance by agents of another government and to report all meetings with foreign agents); H.R. 1617, 116th Cong. (2019) (requiring intelligence assessment of Russian intentions relating to NATO and Western allies); H.R. 1474, 116th Cong. (2019) (requiring intelligence threat assessment prior to every federal general election); H.R. 1, 116th Cong. (2019) (improving election security and oversight and providing for national strategy and enforcement to combat foreign interference).

For decades, Mr. Trump's business interests have intersected with Russia-linked entities and individuals, including oligarchs with ties to President Vladimir Putin.[17] Since 1998,

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[15] 165 Cong. Rec. H3482 (daily ed. May 8, 2019) (statement of Rep. Schiff).

[16] *Id.*

[17] House Permanent Select Comm. on Intelligence Minority Members, *Minority Views to the Majority-Produced "Report on Russian Active Measures"* 23-24 (Mar. 26, 2018), https://tinyurl.com/HPSCIMinorityViews (describing in detail the factual basis for the investigation of financial compromise or leverage that Russia may hold over President Trump, his family, and his business); *see also, e.g.*, Ken Dilanian, *Congress Now Interested in That Other Trump Tower Once Planned for Russia*, NBC News (Jan. 13, 2019, 7:06 AM), https://tinyurl.com/NBCOtherTrumpTower. The Committee's current investigations follow on the investigation conducted during the 115th Congress into "Russian interference with the 2016 Presidential election." *Bean LLC v. John Doe Bank*, 291 F. Supp. 3d 34, 38 (D.D.C. 2018).

Deutsche Bank—which also had ties to Russian state institutions—served as a lender of last resort for Mr. Trump, extending loans totaling more than $2 billion.[18] Around 2006, Mr. Trump embarked on a multi-year spending spree, ultimately spending more than $400 million in cash on various properties.[19] These cash outlays occurred during a period in which the Trump Organization was reportedly experiencing significant cash inflows from Russian sources.[20] It has also been reported that wealthy Russians and individuals from former Soviet states used Trump-branded real estate to park—and in some cases launder—large sums of money for over a decade.[21] More recently, Mr. Trump secretly pursued a lucrative licensing deal for Trump Tower Moscow—a deal that would have required Kremlin approval—through at least June 2016, including after Mr. Trump had effectively secured the Republican presidential nomination.[22] At the same time, Mr. Trump was advocating policies favored by Russia and praising President Putin.[23] It is unclear whether the Trump Tower Moscow deal remains latent.[24]

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[18] $2 Billion in Loans, https://tinyurl.com/NYT2BillioninLoans. Mr. Trump's 2018 financial disclosure showed liabilities of at least $130 million owed to Deutsche Bank. U.S. Office of Gov't Ethics, Form 278e, 2017 Exec. Branch Personnel Public Fin. Disclosure Report of Donald J. Trump, President 45 (signed May 15, 2018), https://tinyurl.com/TrumpForm278e2018; *infra* n.22.

[19] Jonathan O'Connell et al., *As the 'King of Debt,' Trump Borrowed to Build His Empire. Then He Began Spending Hundreds of Millions in Cash.*, Wash. Post (May 5, 2018), https://tinyurl.com/WashPostKingofDebt.

[20] *See* Michael Hirsch, *How Russian Money Helped Save Trump's Business*, Foreign Pol'y (Dec. 21, 2018, 1:31 PM), https://tinyurl.com/FPRussianMoney.

[21] *See, e.g., id.*

[22] *See* Mark Mazzetti et al., *Moscow Skyscraper Talks Continued Through 'the Day I Won,' Trump Is Said to Acknowledge*, N.Y. Times (Jan. 20, 2019) (Moscow Skyscraper Talks), https://tinyurl.com/NYTMoscowSkyscraper.

[23] *See Putin's Playbook: The Kremlin's Use of Oligarchs, Money and Intelligence in 2016 and Beyond: Hearing Before the House Permanent Select Committee of Intelligence*, 116th Cong. (2019) (Committee on Intelligence Hearing: Putin's Playbook) (prepared statement of Michael McFaul, Former U.S. Ambassador to Russia, at 9-10, https://tinyurl.com/AmbMcFaul.

[24] During a discussion with reporters in 2018, Trump suggested that he would have resumed the Trump Tower Moscow deal if he did not win the presidency. *Remarks by President*

The Committee is examining whether Mr. Trump's foreign business deals and financial ties were part of the Russian government's efforts to entangle business and political leaders in corrupt activity or otherwise obtain leverage over them. On March 28, 2019, the Committee held a hearing to "discuss how the Kremlin uses financial leverage and corruption as tools of intelligence operations and foreign policy," including "the use of financial entanglements as a means of compromise."[25] Former U.S. Ambassador to Russia Michael McFaul testified that "in parallel with Putin's use of money, corruption, and property rights as instruments for governing inside Russia, the Russian government instructs its economic actors to make deals with foreign entities to establish increased leverage and influence within these countries."[26] Ultimately, the Committee's investigation of these matters will inform its "plans to develop legislation and policy reforms to ensure the U.S. government is better positioned to counter future efforts to undermine our political process and national security."[27]

II. Procedural History

On April 15, 2019, following discussions with counsel for Deutsche Bank, the Committees issued identical subpoenas to Deutsche Bank. *See* Decl. of Todd B. Tatelman, Ex. A (redacted subpoena). On the same day, the Committee on Financial Services issued a subpoena to Capital One. *See* Decl. of Todd B. Tatelman, Ex. B. The subpoenas seek financial

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Trump Before Marine One Departure, White House (Nov. 29, 2018, 10:23 AM), https://tinyurl.com/Nov29Remarks; *see also* Moscow Skyscraper Talks, https://tinyurl.com/NYTMoscowSkyscraper.

[25] Committee on Intelligence Hearing: Putin's Playbook (opening statement of Chairman Schiff, at 2, https://tinyurl.com/ChairmanOpeningStatement); *see also* (prepared statement of Steven Hall, Former Chief of Russian Operations, Central Intelligence Agency at 19, https://tinyurl.com/StevenHallTestimony).

[26] *Id.* (prepared statement of Michael McFaul, Former U.S. Ambassador to Russia at 8, https://tinyurl.com/AmbMcFaul).

[27] Press Release, U.S. House of Representatives Permanent Select Comm. on Intelligence, Chairman Schiff Statement on House Intelligence Committee Investigation (Feb. 6, 2019), https://tinyurl.com/Feb6PressRelease.

and account information concerning plaintiffs and various non-parties. The return date for the subpoenas was May 6, 2019. On April 29, 2019, Mr. Trump filed this suit. ECF No. 1.

ARGUMENT

PLAINTIFFS ARE NOT ENTITLED TO A PRELIMINARY INJUNCTION

Mr. Trump's motion for a preliminary injunction should be denied. A preliminary injunction is an "extraordinary and drastic remedy," *Munaf*, 553 U.S. at 689-90 (quotation marks omitted), that "should not be granted unless the movant, by a clear showing, carries the burden of persuasion," *Mazurek v. Armstrong*, 520 U.S. 968, 972 (1997) (per curiam) (emphasis and quotation marks omitted). To meet that burden, a plaintiff "must establish that he is likely to succeed on the merits, that he is likely to suffer irreparable harm in the absence of preliminary relief, that the balance of equities tips in his favor, and that an injunction is in the public interest." *N.Y. Progress & Prot. PAC v. Walsh*, 733 F.3d 483, 486 (2d Cir. 2013) (quoting *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008)).[28]

I. Mr. Trump Cannot Demonstrate a Substantial Likelihood of Success on the Merits

A series of Supreme Court decisions drawing on historical practice stretching back to the earliest days of our Republic compels denial of Mr. Trump's injunction request. These cases support our core proposition: that Mr. Trump's lawsuit reflects a seriously uninformed and mistaken view of the powers of Congress.

A. The Constitution Confers Broad Investigatory Powers on Congress

Congress has broad authority to obtain information necessary to conduct oversight and

[28] To the extent there is any meaningful distinction between the *Winter* standard and the "serious questions" formulation, Pls.' Mem. 2, that has also been used by the Second Circuit in post-*Winter* cases, *see Citigroup Glob. Mkts., Inc. v. VCG Special Opportunities Master Fund Ltd.*, 598 F.3d 30, 36-38 (2d Cir. 2010), this Court need not consider that nuance here because Mr. Trump has failed to meet the heavy burden required under either standard.

investigations. *See Eastland*, 421 U.S. at 504 n.15 ("[T]he scope of [Congress's] power of inquiry . . . is as penetrating and far-reaching as the potential power to enact and appropriate under the Constitution." (quotation marks omitted)). The power to investigate—and to issue subpoenas—is integral to Congress's Article I power to legislate. *Id.* at 503-04 (explaining that "[t]he power to investigate and to do so through compulsory process plainly falls" within Congress's "legitimate legislative sphere" and "[i]ssuance of subpoenas . . . has long been held to be a legitimate use by Congress of its power to investigate"). Thus, Congress's "power to secure needed information by [compulsory process] has long been treated as an attribute of the power to legislate" and "is an essential and appropriate auxiliary to the legislative function." *McGrain v. Daugherty*, 273 U.S. 135, 161, 174 (1927).[29]

The Supreme Court has explained the constitutional foundation for this principle: "A legislative body cannot legislate wisely or effectively in the absence of information respecting the conditions which the legislation is intended to affect or change; and where the legislative body does not itself possess the requisite information—which not infrequently is true—recourse must be had to others who do possess it." *Id.* at 175. And because "mere requests for such information often are unavailing . . . some means of compulsion are essential to obtain what is needed." *Id.*; *accord Eastland*, 421 U.S. at 505.

B. The Power of the Committees to Investigate

Pursuant to the Constitution's Rulemaking Clause, U.S. Const. art. I, § 5, cl. 2, the House has delegated extensive oversight and investigative authority to both Committees. *See* House

[29] *See also, e.g.*, *Barenblatt v. United States*, 360 U.S. 109, 111 (1959) ("The power of inquiry has been employed by Congress throughout our history, over the whole range of the national interests concerning which Congress might legislate or decide upon due investigation not to legislate[.]"); *United States v. Josephson*, 165 F.2d 82, 89-90 (2d Cir. 1947) ("It is, of course, well settled that Congress may make investigations in aid of legislation."); *Bean LLC*, 291 F. Supp. 3d at 43 (similar).

Rule XI.1(b)(1). The Committee on Financial Services has broad jurisdiction regarding "[b]anks and banking, including deposit insurance and Federal monetary policy," as well as "[i]nternational finance." House Rule X.1(h)(1), (5). The Committee on Intelligence has jurisdiction over "the activities of the intelligence community" and all legislative matters pertaining to the federal government's "[i]ntelligence and intelligence-related activities." House Rules X.3(m), X.11(b)(1)(B). Both Committees are authorized to issue subpoenas for testimony and documents. *See* House Rule XI.2(m)(1)(B); Rules of the Comm. on Financial Services, Rule 3(e)(1);[30] Rules of the Permanent Select Comm. on Intelligence, Rule 10(b).[31]

To fulfill their legislative, investigative, and oversight responsibilities, and consistent with their jurisdiction, the Committees are conducting wide-ranging investigations into pressing issues of national importance, including ongoing reports of money laundering and of foreign influence in the U.S. political process. *See supra* pp. 3-9. Contrary to Mr. Trump's arguments, the Supreme Court has stressed that the role of the courts in reviewing these Congressional investigations is very limited. *See Barenblatt*, 360 U.S. at 132 ("So long as Congress acts in pursuance of its constitutional power, the Judiciary lacks authority to intervene on the basis of the motives which spurred the exercise of that power."). Where "a rational legislative purpose is present for investigating a particular person, organization, or institution[,] [t]here is no requirement that every piece of information gathered in such an investigation be justified before the judiciary." *McSurely v. McClellan*, 521 F.2d 1024, 1041 (D.C. Cir. 1975), *vacated on other grounds by* 553 F.2d 1277, 1280 (D.C. Cir. 1976) (en banc) (per curiam). A Congressional investigation may lead "up some 'blind alleys' and into nonproductive enterprises. To be a valid

[30] *Available at* https://tinyurl.com/CommFinServsRules.
[31] *Available at* https://tinyurl.com/HPSCIRules.

legislative inquiry there need be no predictable end result." *Eastland*, 421 U.S. at 509.

This Court's narrow inquiry into whether there is a legitimate legislative purpose is not an occasion to adjudicate the motivations of the Committees or to second-guess the Committees' reasonable determinations regarding the need for the information sought. *Id.* at 508 (explaining that when "determining the legitimacy of a congressional act, [courts] do not look to the motives alleged to have prompted it"); *see also, e.g.*, *Bean LLC*, 291 F. Supp. 3d at 44 (holding that courts "lack[] the authority to restrict the scope of [a] Committee's investigation" and stating that they "*may not* [] engage in a line-by-line review of [a] Committee's requests" (emphasis added)).

C. The Committees Have a Valid Legislative Purpose

Plaintiffs incorrectly contend that the Committees lack a valid legislative purpose and instead seek merely to "'expose' Plaintiffs' finances." Pls.' Mem. at 10 (quoting *Watkins v. United States*, 354 U.S. 178, 200 (1957)). The information requested by the Committees is necessary for their investigations and will inform their ongoing oversight and legislative efforts. Only through a detailed and comprehensive understanding of the banks' implementation of the relevant banking laws and regulations, foreign governments and entities' financial activities, and Mr. Trump's finances and business deals can the Committees assess the risks to the U.S. financial system and national security presented by the loans and foreign financial ties at issue. The factual record developed through the Committees' investigations is critical to developing and refining effective legislative and policy initiatives.

The question before this Court is whether the Committees' inquiries are authorized under House Rules and "concern[] a subject on which 'legislation could be had.'" *Eastland*, 421 U.S. at 506 (quoting *McGrain*, 273 U.S. at 177); *see also Bean LLC*, 291 F. Supp. 3d at 43. The subpoenas to Deutsche Bank and Capital One are integral to the Committees' investigations, which fall comfortably within the Committees' legislative, oversight, and investigative

jurisdictions. *Supra* pp. 3-12. Mr. Trump's contrary arguments are unavailing.

1. Mr. Trump contends that the subpoenas are invalid because "[t]he Committees have never identified a single piece of legislation within their respective jurisdictions that they are considering." Pls.' Mem. at 10. But this misunderstands the law. The Committees have no obligation to identify specific legislation they are considering. *See Josephson*, 165 F.2d at 89-90 (noting "it is immaterial" to the valid legislative purpose inquiry "that in the past this particular committee has proposed but little legislation"). The Supreme Court requires only that the subject matter of the investigation be "one on which legislation *could* be had." *McGrain*, 273 U.S. at 177 (emphasis added); *see also Barenblatt*, 360 U.S. at 111 (power of inquiry "has been employed by Congress throughout our history, over the whole range of the national interests concerning which Congress might legislate or decide upon due investigation not to legislate").

In *McGrain*, for example, the Supreme Court recognized that the original resolution authorizing the Senate's investigation into the Teapot Dome Affair made no mention of a legislative purpose. 273 U.S. at 177 ("It is quite true that the resolution directing the investigation does not in terms avow that it is intended to be in aid of legislation[.]"). Nevertheless, the Court found a legitimate legislative purpose, noting that "[p]lainly the subject was one on which legislation could be had and would be materially aided by the information which the investigation was calculated to elicit." *Id.* The Court stressed that it was "bound to presume that the action of the legislative body was with a legitimate object, if it is capable of being so construed, and we have no right to assume that the contrary was intended." *Id.* at 178 (quotation marks omitted).

The law cannot be otherwise, as plaintiffs erroneously suggest. If Congress could only investigate matters where legislation is actively being drafted—but not, for example, where

legislation had already passed the House or could be developed in the future—Congress would be unable to fulfill its purpose. It could not exercise the power to investigate as the Supreme Court envisioned, *i.e.*, in aid of Congress's legislative authority, and it would "be seriously handicapped in its efforts to exercise its constitutional function." *Quinn v. United States*, 349 U.S. 155, 161 (1955). Mr. Trump's view would deprive Congress of its ability to obtain the very information it needs to determine whether legislation is necessary, *e.g.*, *Barenblatt*, 360 U.S. at 111, and to then "legislate wisely [and] effectively," *McGrain*, 273 U.S. at 175. In any event, although the Committees are not *required* to identify specific pending legislation to justify either the legitimate legislative purpose of the investigations or the subpoenas, there are several bills and pending proposals that will be informed by the information sought here. *E.g.*, *supra* pp. 5, 7.

Setting aside Mr. Trump's speculation about Congressional motives, he has offered no legitimate basis to find that the subpoenas at issue were not designed to elicit information that will inform and aid the Committees in their legislative and oversight functions. As the Chairpersons of both Committees have publicly stated, the investigations are specifically designed to further the Committees' legislative agendas: Ms. Waters cautioned that "Congress must close the[] loopholes" that have allowed money laundering and unsafe banking practices,[32] and Mr. Schiff emphasized that "[t]he Committee . . . plans to develop legislation and policy reforms to ensure the U.S. government is better positioned to counter future efforts to undermine our political process and national security."[33]

2. Mr. Trump asserts that "any legislative purpose is not legitimate unless it falls within that committee's jurisdiction." Pls.' Mem. at 9. But he makes little effort to explain this

[32] 165 Cong. Rec. H2698 (daily ed. Mar. 13, 2019) (statement of Rep. Waters).
[33] Chairman Schiff Press Release, https://tinyurl.com/Feb6PressRelease.

contention, other than to argue that the subpoenas relate to "financial conduct of private citizens years before they were anywhere near public office." Pls.' Mem. at 10. This argument fails to understand the scope of the Committees' jurisdiction and the nature of the investigations.

The Committee on Financial Services is investigating, among other things, unsafe lending practices that can have broad effects on the national economy. That investigation is not limited to Mr. Trump or even to public officials. Congress is authorized by the Constitution to legislate to address such industry-wide risks, but it can only do so if it understands the problems. The banks' lending practices—including loans made to plaintiffs—are an important piece of that investigation. The subpoenas seek records relating to individuals and entities—including plaintiffs—that may have served as conduits for illicit funds or may not have been properly underwritten. Because of his prominence, much is already known about Mr. Trump, his family, and his business, and this public record establishes that they serve as a useful case study for the broader problems being examined by the Committee. Moreover, the relevant transactions occurred, and the risky practices developed, over the course of many years. The Committee seeks documents that will enable it to identify weaknesses in laws intended to guard against these financial ills, including the Bank Secrecy Act and anti-money laundering regulations.

Simultaneously, the Committee on Intelligence is investigating, among other time-sensitive threats to national security, foreign interference in the U.S. political process and financial or other leverage that foreign powers may possess over Mr. Trump, his family, and his business. That investigation is squarely within the Committee's jurisdiction and requires an understanding of Mr. Trump's complex financial arrangements, including how those arrangements intersect with Russia and other foreign governments and entities. That inquiry is, by definition, not limited to Mr. Trump's time in office and, given the closely held nature of the

Trump Organization, must include his close family members. The Intelligence Community has long recognized that foreign financial ties can create potential conflicts of interest and a heightened risk of foreign influence, exploitation, and coercion. Indeed, such ties are regularly examined as part of the normal security clearance process.

Even when a subpoena is challenged on relevancy grounds, "the subpoena is to be enforced 'unless the district court determines that there is no reasonable possibility that the category of materials the Government seeks will produce information relevant to the general subject of the . . . investigation." *Senate Select Comm. v. Packwood*, 845 F. Supp. 17, 21 (D.D.C. 1994) (ellipsis in original) (quoting *United States v. R. Enters., Inc.*, 498 U.S. 292, 301 (1991)). "There is no requirement that every piece of information gathered in [a Congressional] investigation be justified before the judiciary." *McSurely*, 521 F.2d at 1041. "This is particularly true in light of the fact that, at this stage of the proceedings, the Committee is acting as the 'legislative branch equivalent of a grand jury, in furtherance of an express constitutional grant of authority.'" *Bean LLC*, 291 F. Supp. 3d at 45 (quoting *Packwood*, 845 F. Supp. at 21).

The Committees have subpoenaed plaintiffs'—and other non-parties'—financial statements that will aid the Committees in performing their oversight functions and considering and drafting legislation. The information may also shed light on other potential areas of inquiry or the locations of other relevant evidence that the Committees could obtain. Mr. Trump has not, and cannot, establish that the Committees' subpoenas are "plainly incompetent or irrelevant to any lawful purpose," *McPhaul v. United States*, 364 U.S. 372, 381 (1960), or that there is "no reasonable possibility that the category of materials the [Committee] seeks will produce information relevant to the general subject of the . . . investigation," *R. Enters.*, 498 U.S. at 301; *McSurely*, 521 F.2d at 1041.

3. Mr. Trump erroneously contends that the Committees are engaged in "a quintessential law enforcement task." Pls.' Mem. at 10. The fact that an investigation is wide-ranging, however, does not convert it from a legislative to a law-enforcement task. To the contrary, the Committees' power to investigate is in many respects broader than that of law enforcement; it "is as penetrating and far-reaching as the potential power to enact and appropriate." *Eastland*, 421 U.S. at 504 n.15 (quotation marks omitted). Even if the Committees' investigations were to uncover criminal conduct, there is no basis for Mr. Trump's unsupported assertion that the Committees lack the power to investigate matters within their jurisdiction or obtain the relevant financial records sought here. *See R. Enters.*, 498 U.S. at 299 (cautioning against "[r]equiring the Government to explain in too much detail the particular reasons underlying a subpoena").

While Congressional Committees can refer suspected criminal matters to the proper Executive Branch officials, the possibility that they could find criminal activity does not mean they are engaged in law enforcement, nor does it invalidate their legitimate legislative purposes. *Hutcheson v. United States*, 369 U.S. 599, 618 (1962) ("[S]urely a congressional committee which is engaged in a legitimate legislative investigation need not grind to a halt whenever responses to its inquiries might potentially be harmful to a witness in some distinct proceeding, or when crime or wrongdoing is disclosed." (citation omitted)). "[C]ourts must presume that the committees of Congress will exercise their powers responsibly and with due regard for the rights of affected parties," *Exxon Corp. v. FTC*, 589 F.2d 582, 589 (D.C. Cir. 1978).

4. Mr. Trump's assertion that the Committees seek merely to expose his finances, Pls.' Mem. at 10, is unsupported by anything other than political rhetoric and press statements. Even if he had provided some basis to question the Committees' motives, the Court should not look behind the legitimate legislative purpose of the investigations. *Cf. Trump v. Hawaii*, 138 S. Ct.

2392, 2418-20, 2423 (2018) (upholding President Trump's "travel ban" and explaining the issue "is not whether to denounce the [President's] statements," but rather to "review[] a Presidential directive, neutral on its face, addressing a matter within the core of executive responsibility").

As discussed above, and consistent with the voluminous public record, there is no basis for this Court to question the legitimacy of the legislative purpose of the Committees' investigations. *See, e.g.*, *Eastland*, 421 U.S. at 509 ("The wisdom of congressional approach or methodology is not open to judicial veto."); *Watkins*, 354 U.S. at 200 (cautioning against "testing the motives of committee members for this purpose"). And, as noted above, Supreme Court precedent establishes that Congress's power to investigate is "broad" and "encompasses inquiries concerning the administration of existing laws as well as proposed or possibly needed statutes." *Watkins*, 354 U.S. at 187; *see also Barenblatt*, 360 U.S. at 132 ("So long as Congress acts in pursuance of its constitutional power, the Judiciary lacks authority to intervene on the basis of the motives which spurred the exercise of that power.").

Accordingly, Mr. Trump's motion for a preliminary injunction should be denied and this Court should issue an order that the subpoenas to the banks are valid and enforceable.

D. The Right to Financial Privacy Act Does Not Apply to Congress

Mr. Trump argues that the subpoenas "violate Plaintiffs' statutory rights," Pls.' Mem. 10, under the Right to Financial Privacy Act (RFPA), 12 U.S.C. § 3401 *et seq.*[34] But RFPA does not

[34] Separate and apart from RFPA's inapplicability to Congress (discussed *infra*), at most only a handful of plaintiffs could conceivably avail themselves of the statute's protections. RFPA's requirements apply to the "financial records of any customer." 12 U.S.C. § 3402. The term "customer" means a "person or authorized representative of that person," and RFPA defines "person" as "*an individual or a partnership of five or fewer individuals*." 12 U.S.C. § 3401(4) & (5) (emphasis added). Because they are not "customers" within the ambit of the statute, plaintiff corporations, limited liability companies, and a trust (Compl. ¶¶ 17-23) lack any rights under RFPA. *See United States v. Daccarett*, 6 F.3d 37, 51 (2d Cir. 1993) (RFPA "is limited to individual customers and small partnerships; corporations are not protected"), *superseded on*

apply to Congress. RFPA constrains the disclosure of customer financial records to federal authorities. *Id.* §§ 3402, 3405. "[T]he 'most salient feature of [RFPA] is the narrow scope of the entitlements it creates', because Congress wanted to 'minimize[] the risk that customers' objections to subpoenas will delay or frustrate agency investigations.'" *Daccarett*, 6 F.3d at 51. To that end, the "Second Circuit has adopted a decidedly narrow view of the protections afforded by the RFPA." *Barroga-Hayes v. Susan D. Settenbrino, P.C.*, No. 10 CV 5298, 2012 WL 1118194, at *4 (E.D.N.Y. Mar. 30, 2012) (collecting cases).

In *Hubbard v. United States*, the Supreme Court considered whether the very statutory terms at issue here—"any department or agency of the United States"—as used in 18 U.S.C. § 1001 referred only to the Executive Branch or more broadly to Congress, as the Court had previously held in *United States v. Bramblett*, 348 U.S. 503 (1955).[35] In *Hubbard*, the Court overruled *Bramblett* to hold that "department or agency of the United States" refers *only* to Executive Branch entities, explaining, "while we have occasionally spoken of the three branches of our Government, including the Judiciary, as 'department[s],' that locution is not an ordinary one[,]" and "[f]ar more common is the use of 'department' to refer to a component of the Executive Branch." 514 U.S. at 699 (citation omitted); *see id.* at 699-700, 702 (calling *Bramblett* "a seriously flawed decision" that "made no attempt to reconcile its interpretation with the usual

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other grounds by statute as recognized by United States v. Sum of $185,336.07 Currency Seized from Citizen's Bank Account L7N01967, 731 F.3d 189, 196 (2d Cir. 2013); *Bean*, 291 F. Supp. 3d at 48 (limited liability company "has no rights under the RFPA because it is not a 'person' who may qualify as a 'customer' for the purposes of that statute."); *Exch. Point LLC v. U.S. SEC*, 100 F. Supp. 2d 172, 175 (S.D.N.Y. 1999) (corporation and limited liability company not covered by RFPA); *In re Porras*, 191 B.R. 357, 359 (Bankr. W.D. Tex. 1995) ("Trust is not a protected entity under [RFPA].").

[35] *Hubbard*, 514 U.S. 695 (1995), *superseded on other grounds by statute as recognized by United States v. Butler*, 351 F. Supp. 2d 121, 129 (S.D.N.Y. 2004).

meaning of 'department'"). The Court invoked the same statutory provision, 18 U.S.C. § 6, that plaintiffs rely on, Pls.' Mem. at 11, as "bolster[ing]" the Court's "commonsense reading" of "department" to exclude all non-Executive Branch entities, including Congress.[36]

The text and structure of RFPA further demonstrate that Congress did not intend for the terms "agency" or "department" to apply to itself. In a section of the statute that governs the "transfer" of financial information already held by RFPA-regulated "agencies" or "departments," Congress provided that "nothing in this chapter shall authorize the withholding of information by any officer or employee of a supervisory agency from a duly authorized committee or subcommittee of Congress." 12 U.S.C. § 3412(d). Were Congress itself an "agency or department," this savings clause would have no meaning. *See Dobrova v. Holder*, 607 F.3d 297, 302 (2d Cir. 2010) ("We disfavor interpretations of statutes that render language superfluous." (quotation marks omitted)). Far from an "acknowledge[ment]" by Congress that RFPA "covered the . . . legislative branch[]," Pls.' Mem. 12, the clause shows that Congress well understood its own Committees to be distinct from "any agency or department" subject to RFPA's strictures.

Other aspects of RFPA's design reinforce this understanding. The statute, for example, exempts numerous types of investigatory instruments—*e.g.*, administrative subpoenas, grand jury subpoenas, and search warrants, *see* 12 U.S.C. §§ 3405-3407—from its disclosure prohibitions without mention of Congressional subpoenas. There is simply no reason to think that Congress, acting *sub silentio*, would so dramatically curtail the scope of its Article I

[36] *See* 18 U.S.C. § 6 ("The term 'department' means one of the executive departments enumerated in section 1 of Title 5, unless the context shows that such term was intended to describe the executive, legislative, or judicial branches of the government."); *Hubbard*, 514 U.S. at 701 (noting, with reference to Section 6, that "'[s]hows' is a strong word"); *see also, e.g.*, 5 U.S.C. § 551(1)(A) (the term "'agency' means each authority of the Government of the United States . . . but does not include . . . the Congress").

investigative powers to obtain confidential information. Moreover, RFPA provides for an array of civil penalties for those (including government actors) who violate its requirements—*see* 12 U.S.C. § 3417 (punitive damages). It is implausible that Congress would silently subject itself and its staff to such liability, particularly given its broad Speech or Debate and other immunities. *See, e.g.*, U.S. Const. art. 1, § 6, cl. 1.[37] RFPA simply has no application to this case.

II. Mr. Trump Has Failed to Establish a Likelihood of Irreparable Injury

Mr. Trump's failure to satisfy the stringent irreparable-injury requirement is a separate and independent ground requiring denial of the motion. "A showing of irreparable harm is the single most important prerequisite for the issuance of a preliminary injunction." *Faiveley Transp. Malmo AB v. Wabtec Corp.*, 559 F.3d 110, 118 (2d Cir. 2009) (quotation marks omitted). "[A] mere possibility of irreparable harm is insufficient to justify the drastic remedy of a preliminary injunction." *Borey v. Nat'l Union Fire Ins. Co. of Pittsburgh, Pa.*, 934 F.2d 30, 34 (2d Cir. 1991). Rather, a plaintiff "must demonstrate that absent a preliminary injunction they will suffer an injury that is neither remote nor speculative, but actual and imminent, and one that cannot be remedied if a court waits until the end of trial to resolve the harm." *Grand River Enter. Six Nations, Ltd. v. Pryor*, 481 F.3d 60, 66 (2d Cir. 2007) (quotation marks omitted). Importantly, irreparable injury may not be shown by bare allegations or conclusory statements; a plaintiff must provide the court with actual "evidence" of the harm that is allegedly being

[37] The legislative history likewise contains no indication that Congress intended for RFPA to regulate its own subpoenas. On the contrary, Congress declined to "extend" the definition of "government authority" to include "Congress of the United States," after the Justice and Treasury Departments proffered draft language that would have done so. *See Electronic Funds Transfer and Financial Privacy: Hearings on S. 2096, S. 2293 and S. 1460 Before the Subcomm. on Financial Institutions of the Senate Comm. on Banking, Housing and Urban Affairs*, 95th Cong., 2nd Sess. 194, 397 (1978); *id.* at 397 (defining "government authority" in proposed, draft legislation to mean "*the Congress of the United States*, or any agency or department of the United States or of a State or political subdivision, or any officer, employee or agent of any of the foregoing" (emphasis added)).

incurred. *E.g.*, *Weaver v. Schiavo*, 750 F. App'x 59, 60 (2d Cir. 2019) (upholding denial of preliminary injunction where plaintiff "provided no evidence that he would suffer irreparable harm absent injunctive relief"); *Faiveley*, 559 F.3d at 120 ("In the absence of evidentiary support of irreparable harm, there was no basis for the entry of a preliminary injunction . . . in this action."); *Lanvin Inc. v. Colonia, Inc.*, 739 F. Supp. 182, 193 (S.D.N.Y. 1990).

Mr. Trump falls short of this exacting standard. Asserting that "there will be no way to unring the bell once" the subpoenas are executed, Pls.' Mem. 1, plaintiffs provide no actual evidence of their potential injury. This lack of substantiation is reason enough to conclude that plaintiffs have not shown irreparable injury. *Faiveley*, 559 F.3d at 119-20. Mr. Trump's reliance on various cases, Pls.' Mem. at 6, involving *public* disclosure of confidential records is also misplaced. "[T]he release of information to the Congress does not constitute 'public disclosure.'" *Exxon Corp.*, 589 F.2d at 589 ("no indication" that disclosure of confidential trade secret information to a Congressional subcommittee "will in any way harm" plaintiff). Even where trade secrets are at stake, "[t]he courts must presume that the committees of Congress will exercise their powers responsibly and with due regard for the rights of affected parties." *Id.*

Nor does Mr. Trump's reliance on *U.S. Servicemen's Fund v. Eastland*, 488 F.2d 1252, 1256, 1257 (D.C. Cir. 1973), *rev'd*, 421 U.S. 491 (1975), Pls.' Mem. at 7, 13, rescue the inadequate irreparable harm showing. While Mr. Trump is correct that, in staying enforcement of the subpoena, the *Eastland* Court noted the "serious constitutional questions [that] are presented by this litigation," *Eastland*, 488 F.2d at 1256, Mr. Trump neglects to mention that the *Eastland* plaintiff had claimed that the subpoena violated numerous First Amendment rights, *id.* at 164 ("threat to the right of freedom of association and assembly and protest under the First Amendment")—a grave species of injury long recognized as warranting immediate judicial

intervention. *See Bronx Household of Faith v. Bd. of Educ. of City of N.Y.*, 331 F.3d 342, 349 (2d Cir. 2003) (noting "[t]he loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury" (quoting *Elrod v. Burns*, 427 U.S. 347, 373 (1976)), *overruled in part on other grounds by Good News Club v. Milford Cent. Sch. Dist.*, 533 U.S. 98 (2001). *Eastland* recognized these unique circumstances, distinguishing the situation from "all of the previous cases" it considered because "*[h]ere the plaintiffs have no alternative means to vindicate their [First Amendment] rights.*" *Eastland*, 488 F.2d at 1269, 1260.[38]

Mr. Trump, who does not claim any such violation of his First Amendment rights, cannot validly contend that "the questions raised in this case [regarding release of bank records] . . . are far more serious and important than the questions in *Eastland*." Pls.' Mem. at 13. The failure to assert, let alone establish, irreparable injury is fatal to the preliminary injunction motion.

III. The Balance of Equities Tips Heavily in Favor of the Committees

The balance of the equities overwhelmingly favors the Committees. Mr. Trump asserts that injury will flow from compliance with the subpoenas. But there is no basis for assuming such injury if the banks produce financial records to the Committees in the same manner that numerous entities—including accounting firms, banks, and other financial institutions—routinely produce such records in response to civil discovery subpoenas, government administrative subpoenas or civil investigative demands, grand jury subpoenas, and the like. "Given the presumption of congressional propriety discussed above, there is no risk of imminent injury to [plaintiffs]" from disclosure to Congress. *Exxon Corp.*, 589 F.2d at 589 (citation omitted).

By contrast, the Committees are actively investigating matters of national importance,

[38] This special First Amendment context notwithstanding, the Supreme Court noted in overturning the D.C. Circuit years later that the "case illustrates vividly the harm that judicial interference may cause" where a valid "legislative inquiry has been frustrated for nearly five years." *Eastland*, 421 U.S. at 511.

including live threats to the nation's financial system, election system, and security. The Committees' interest in prompt compliance with their subpoenas is paramount. As the Supreme Court has held, Congress's "power of inquiry—with process to enforce it—is an essential and appropriate auxiliary to the legislative function." *McGrain*, 273 U.S. at 174. Mr. Trump's argument that the Committees have "no urgent need for the subpoenaed documents," Pls.' Mem. at 14, is not only wrong—given the pressing nature of the investigations—it is also an improper usurpation of Congress's constitutional power to investigate and conduct oversight. The Committees' interest in obtaining relevant information necessary to ongoing investigations—before the 116th Congress expires—would be severely harmed by any injunctive relief in this case. Thus, the balance of equities weighs heavily in favor of denial of Trump's motion.

IV. The Public Interest Supports Enforcement of the Subpoena

For the same reasons, the public interest strongly supports denial of the requested relief. There is a "clear public interest in maximizing the effectiveness of the investigatory powers of Congress," and "the investigatory power is one that the courts have long perceived as essential to the successful discharge of the legislative responsibilities of Congress." *Exxon Corp*., 589 F.2d at 594. Plaintiffs' contrary argument ignores the clear and compelling public interest in expeditious and unimpeded Congressional investigations into core aspects of the financial and election systems that touch every member of the public. And Mr. Trump provides no legitimate reason why the public would be served by delaying the Committees from obtaining the records necessary to carry out their constitutional oversight and legislative duties.

CONCLUSION

For the foregoing reasons, plaintiffs' motion for a preliminary injunction should be denied and the case should be dismissed with prejudice following a Rule 65(a)(2) merits hearing.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that on May 10, 2019, I caused the foregoing document to be filed via this Court's CM/ECF system, which I understand caused service on all registered parties.

/s/ *Douglas N. Letter*
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