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October 11, 2019

The Honorable Brian Bulatao
Under Secretary of State for Management
U.S. Department of State
Washington, D.C. 20520

Dear Mr. Bulatao:

In my capacity as counsel for Ambassador Marie Yovanovitch, I have received your letter of October 10, 2019, directing the Ambassador not to appear voluntarily for her scheduled deposition testimony on October 11, 2019 before the Committee on Foreign Affairs, the Permanent Select Committee on Intelligence, and the Committee on Oversight and Reform in connection with the House of Representatives's impeachment inquiry. Just this morning, the Ambassador received a subpoena issued by the House Permanent Select Committee on Intelligence, requiring her to appear for the deposition as scheduled.

Although the Ambassador has faithfully and consistently honored her professional duties as a State Department employee—including at all times following her abrupt termination as U.S. Ambassador to Ukraine—she is unable to obey your most recent directive. As the recipient of a duly issued congressional subpoena, Ambassador Yovanovitch is, in my judgment, legally obligated to attend the deposition as scheduled. *See United States v. Nixon*, 418 U.S. 683, 706 (1974) (“[N]either the doctrine of separation of powers, nor the need for confidentiality of high-level communications, without more, can sustain an absolute, unqualified Presidential privilege of immunity from judicial process under all circumstances.”); *Nixon v. Adm’r of Gen. Servs.*, 433 U.S. 425, 454 (1977) (“[W]e believe that the claims of Presidential privilege clearly must yield to the important congressional purposes of preserving the materials and maintaining access to them for lawful governmental and historical purposes”); *In re Sealed Case*, 121 F.3d 729, 752 (D.C. Cir. 1997) (“Not every person who plays a role in the development of presidential advice, no matter how remote and removed from the President, can qualify for the [presidential communications] privilege. In particular, the privilege should not extend to staff outside the White House in executive branch agencies.”).

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Accordingly, barring some intervening court order to the contrary, Ambassador Yovanovitch intends to comply with the subpoena and attend today's scheduled deposition.

Sincerely,

/s/ Lawrence S. Robbins

Lawrence S. Robbins

Counsel to Amb. Marie Yovanovitch